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HEARING
SENATE RULES COMMITTEE
STATE OF CALIFORNIA
Legislature



STATE CAPITOL
ROOM 113
SACRAMENTO, CALIFORNIA

WEDNESDAY, JUNE 30, 1999
9:36 A.M.

1 SENATE RULES COMMITTEE

2 STATE OF CALIFORNIA

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6 HEARING

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10 STATE CAPITOL

11 ROOM 113

12 SACRAMENTO, CALIFORNIA

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16 WEDNESDAY, JUNE 30, 1999

17 9:36 A.M.

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25 Reported by:

26

27 Evelyn J. Mizak
28 Shorthand Reporter

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1 APPEARANCES

2 MEMBERS PRESENT

3 SENATOR JOHN BURTON, Chair

4 SENATOR JOHN LEWIS, Vice Chair

5 SENATOR JOE BACA

6 SENATOR WILLIAM KNIGHT

7 MEMBER ABSENT

8 SENATOR TERESA HUGHES

9 STAFF PRESENT

10 GREG SCHMIDT, Executive Officer

11 PAT WEBB, Committee Secretary

12 NETTIE SABELHAUS, Consultant on Governor's Appointments

13 WADE TEASDALE, Consultant to SENATOR LEWIS

14 FELICE TANENBAUM, Consultant to SENATOR HUGHES

15 CHRIS BURNS, Consultant to SENATOR KNIGHT

16 MANNY HERNANDEZ, Consultant to SENATOR BACA

18 ALSO PRESENT

19 WILLIAM ELKINS, Member
20 State Personnel Board

21 DENNIS ALEXANDER
22 Professional Engineers in California Government

23 ARTHUR E. JORDAN
24 California Coalition of Minorities, Women, and Persons with
Disabilities

25 JOANNE C. KOZBERG, Member
26 The Regents of the University of California

27 SENATOR RICHARD POLANCO

28 SENATOR ADAM SCHIFF

1 STEVE ARDITTI, Director
2 Governmental Relations
3 University of California
4
5 CAROL BAKER THARP, Executive Director
6 Coro
7
8 BILL LAMBERT
9 United Teachers of Los Angeles
10
11 PETER PURSLEY
12 UC Student Association
13
14 DAVID ROSENBERG, Member
15 California State Lottery Commission
16
17 CHRIS MICHELI
18 California Image Associates
19
20 DWIGHT HANSEN
21 California Rehabilitation Association
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1 P-R-O-C-E-E-D-I-N-G-S

2 --ooOoo--

3 CHAIRMAN BURTON: Governor's Appointees,

4 Mr. Elkins.

5 Sir, how are you?

6 MR. ELKINS: Well, thank you, sir.

7 CHAIRMAN BURTON: You may tell us how wonderful
8 you are.

9 MR. ELKINS: Mr. Chairman, and Members, that
10 would be quite inappropriate.

11 Let me take just a few moments, if I may, and
12 share with you, very briefly, my background and most current
13 experience with government.

14 I grew up in the Los Angeles area, in Los
15 Angeles. Went to a high school called Jefferson High School.
16 From there, to UCLA. And after a year at UCLA, into World War
17 II, having been inducted. Served four-and-a-half years, two in
18 Italy. Came back and went back to UCLA and got a Bachelor
19 Degree.

20 Entered the Los Angeles Probation Department.
21 Went to law school at night, Southwestern Law School in the Los
22 Angeles area, and remained in the Probation Department for some
23 16 almost 17 years.

24 From there into the Poverty Program for
25 four-and-a-half years, where I administered a youth diversion
26 program and was about ready to go make some money, and we got
27 Tom Bradley elected Mayor in 1973. And I served on his staff as
28 his Chief Deputy for the 20 years that he served as Mayor for

1 the City of Los Angeles.

2 I have worked as the program officer and counsel
3 for several foundations in the Los Angeles area for the last six
4 years.

5 During the Bradley administration, it was my
6 privilege to serve as his liaison to the League of Cities,
7 United States Conference of Mayors. Had oversight for several
8 of the more major departments for the City of Los Angeles,
9 including the Personnel Department.

10 And that, Mr. Chairman and Members, is a
11 30-second resume of my life.

12 CHAIRMAN BURTON: Do you have members of your
13 family here present that you'd like to introduce?

14 MR. ELKINS: I do not. My wife had planned to
15 come, Mr. Chairman, and came down with something called strep
16 throat and could not join me.

17 CHAIRMAN BURTON: Senator Lewis.

18 SENATOR LEWIS: Good morning.

19 How large is the current backlog of unresolved
20 appeals?

21 MR. ELKINS: I don't -- it's my understanding
22 that they are moving swiftly. A process has been set up, as you
23 are probably aware, to expedite them.

24 And I don't have the precise number, Senator,
25 that there may be as we sit here.

26 SENATOR LEWIS: What kind of reforms are you
27 talking about implementing to try to speed up the processes and
28 reduce the backlog?

1 MR. ELKINS: Well, the Executive Officer of the
2 State Personnel Board, along with his staff, I guess, a little
3 more than a month ago brought to the State Personnel Board
4 several suggestions on ways and means to speed up the process
5 by requesting the administrative law judges to try and shorten
6 their -- the process, certainly shorten the appeals process, and
7 to have the State Personnel Board move more expeditiously,
8 certainly, to handle the agenda as it meets twice a month.

9 SENATOR LEWIS: Four years ago, the Little Hoover
10 Commission had recommended eliminating the State Personnel Board
11 and transferring the functions to DPA. Do you think that idea
12 has any merit?

13 MR. ELKINS: Well, Senator, it's my very strong
14 feeling that the State Personnel Board must maintain its
15 independence. To do otherwise, I think, would destroy the
16 integrity and the credibility of that Board and the
17 constitutionally mandated authority that it has to do its work.

18 I'm not totally familiar with the report that you
19 reference, and I would be glad to check into it and get back to
20 you, if you desire, with a strong opinion on that matter.

21 CHAIRMAN BURTON: Senator Baca, then Senator
22 Knight.

23 SENATOR BACA: Thank you.

24 Bill, one of the questions that I have, as you
25 know, the oversight arm of the Department, the current law
26 allows individual departments to hire applicants for state
27 positions. This is known as decentralized hiring authority.

28 Has the State Personnel Board been monitoring

1 this process to your knowledge?

2 MR. ELKINS: Yes, Senator. The State Personnel
3 Board has indeed been monitoring that process. And the
4 expectation, I believe, is that it will become even more
5 aggressive in doing so.

6 SENATOR BACA: How is it going to improve in the
7 state agency in hiring?

8 I'm glad that you're saying that it's going to
9 improve, but do you have any ideas in terms of how it may be
10 modified or changed?

11 MR. ELKINS: I think a number of things can be
12 done. It is my very strong opinion that the state, or
13 government at any level -- federal, state, or municipal -- ought
14 to have the process to reach out and to bring on board the best
15 people that it can find.

16 As all of us know, government is in competition
17 with the private sector. And one of the things that can be
18 done, in my view, would be to raise the salary levels for people
19 in government at all levels to place government in a better
20 position to attract and to compete more effectively with the
21 private sector.

22 I think that training programs, outreach and
23 training, is a very effective tool that can be used to raise the
24 level of effectiveness and efficiency of staff at all levels.

25 I would hope that that's something the State
26 Personnel Board, as I indicated, will be more aggressive in
27 doing.

28 SENATOR BACA: One final question, Bill. The

1 information that I've gotten is, the work force isn't reflective
2 of the diversity of the State of California right now.

3 What do you believe can be done in the area of
4 recruitment to improve the quality of diversity of the state
5 work force if we're looking at presenting opportunities for
6 individuals, not only to obtain jobs, but upward mobility in
7 executive managerial positions as well? What do you think needs
8 to be done?

9 MR. ELKINS: I have a very strong feeling,
10 Senator, that we ought to look at something called diversity.
11 I think it's a great strength. That was one of the hallmarks of
12 the Bradley administration.

13 Outreach, training, job fairs, and more effective
14 substantive relationships with unions and with departments, I
15 think, will go a long ways in helping the state to address that
16 issue and that very serious concern.

17 SENATOR BACA: Thank you.

18 CHAIRMAN BURTON: Senator Knight.

19 SENATOR KNIGHT: Thank you, Mr. Chairman.

20 Mr. Elkins, some time ago, I gather that the
21 State of Georgia eliminated the civil service status for all new
22 hires there.

23 Would you support anything like that?

24 MR. ELKINS: Eliminating the merit system?

25 SENATOR KNIGHT: The civil service system.

26 MR. ELKINS: No, sir, I could not.

27 SENATOR BACA: You're a military man.

28 SENATOR KNIGHT: That's why I'm asking. I've

1 seen it work, Joe, the civil service system. I know how the
2 military works.

3 CHAIRMAN BURTON: You like kinship one better?
4 Hire all our kin.

5 SENATOR BACA: Move the nomination.

6 SENATOR KNIGHT: I've got one more question.

7 Mr. Elkins, there's been a lot of talk about
8 domestic partners benefits and so forth. Would you support
9 health benefits to nonmarried couples?

10 MR. ELKINS: That is an issue, Senator, in all
11 candor, that I have not resolved in my own mind. It would be my
12 position, there's a lot of litigation, as you know, going on
13 addressing that issue.

14 My position would simply be to support whatever
15 the law defines with respect to it.

16 SENATOR KNIGHT: What litigation is going on
17 there?

18 MR. ELKINS: Well, there are a lot of actions
19 being filed all around the country on that issue. And the law
20 is not definitive on it.

21 And it would be my position to support whatever
22 law that is defined and definitized in this state.

23 SENATOR KNIGHT: Thank you.

24 CHAIRMAN BURTON: Moved by Senator Baca.

25 Call witnesses in support. Just briefly come up,
26 identify yourselves for the record.

27 MR. ALEXANDER: Good morning. I'm Dennis
28 Alexander from Professional Engineers in California Government,

1 and we are in support of Mr. Elkins' confirmation.

2 CHAIRMAN BURTON: Thank you.

3 MR. JORDAN: Art Jordan, representing the
4 California Coalition of Minorities, Women, and Persons with
5 Disabilities. And we recommend his confirmation.

6 CHAIRMAN BURTON: Now, if you would have been for
7 abolishing the civil service commission or system, we could have
8 had this room full of people, good democratic job seekers.

9 Call the roll.

10 SECRETARY WEBB: Senator Baca.

11 SENATOR BACA: Aye.

12 SECRETARY WEBB: Baca Aye. Senator Knight.

13 SENATOR KNIGHT: Aye.

14 SECRETARY WEBB: Knight Aye. Senator Lewis.

15 SENATOR LEWIS: Aye.

16 SECRETARY WEBB: Lewis Aye. Senator Burton.

17 CHAIRMAN BURTON: Aye.

18 SECRETARY WEBB: Burton Aye. Four to zero.

19 CHAIRMAN BURTON: Congratulations.

20 Next, Joanne Kozberg, Member of the Regents of
21 the University of California.

22 Senator Polanco and Senator Schiff.

23 SENATOR POLANCO: Mr. Chairman and Members, we
24 are here, both Senator Schiff and I, to present to the Rules
25 Committee and ask the favorable support for this nomination.

26 I had the opportunity to first work with Joanne
27 when she was the Director of the California Arts Council. At
28 that point in time, the department was experiencing tremendous

1 cutbacks. Through Ms. Kozberg's efforts, her ingenuity, to make
2 a long story short, this department now is back on track. Still
3 some way to go, but came forward with leadership, came forward
4 with some vision.

5 She later became the Secretary of the State and
6 Consumer Services Agency. In that capacity, I've had the
7 opportunity to work with her as Chair of the Subcommittee on
8 State Administration. I have found her to be an individual of
9 strong integrity, honesty, hard work, self-starter, and she
10 exemplifies the best of what public service is about.

11 She serves as the Southern California Director on
12 the NAACP Legal Defense, NAACP Educational Fund.

13 She is a person who brings cultural diversity and
14 cross cultural respect to the public policy debate. And I'm
15 here to lend my unequivocal support, and ask the Rules Committee
16 to move in confirming her and moving her on her quest for regent
17 to the UC system.

18 CHAIRMAN BURTON: Thank you.

19 Senator Schiff.

20 SENATOR SCHIFF: Mr. Chairman and Members, I
21 really want to echo the sentiments expressed by Senator
22 Polanco.

23 Joanne's record in terms of her service, both for
24 the state, its various boards and commissions, its departments,
25 is extensive, as well as her charitable service.

26 I got to know her as the Chair of the Joint
27 Committee on the Arts at a time when she was no longer at the
28 Arts Council, and would go to her frequently for advice on arts

1 issues, for her help and counsel all the way. I always found
2 her to be incredibly helpful, knowledgeable, and party was never
3 an issue.

4 This is a person that works in a bipartisan,
5 indeed, a nonpartisan way. I think she brings a wealth of
6 experience that would be invaluable to the Board of Regents.
7 She is entirely the type of person committed to public service
8 that we really want and need to serve in such an important
9 position, and would strongly urge your support.

10 SENATOR POLANCO: You're on your own.

11 [Laughter.]

12 MS. KOZBERG: Thank you, Senators.

13 When I was four years old, my family moved to
14 California from Canada. My father brought his young family here
15 to practice research cardiology and become a professor at the
16 brand-new UCLA School of Medicine.

17 Side by side with Dr. Franklin Murphy, UCLA'S
18 long time and beloved Chancellor, my father played a major role
19 in bringing UCLA its Molecular Biology Building, the Jules Stein
20 Eye Institute, and the Marion Davies Children's Clinic. In
21 recognition of his efforts, he received the UCLA Alumni Award
22 for Community and University Service.

23 There wasn't a day that I can remember when the
24 University wasn't dinner table conversation in our house. When
25 it was time for me to attend the University, there was no
26 question. I would attend UC, in this case the Berkeley campus,
27 where I graduated in 1966 with a degree in history.

28 At Berkeley in my senior year, I was President of

1 California Club, which served as student advisors to UC
2 President Clark Kerr. Monthly we'd meet with Kerr, Chancellor
3 Hines, and on occasion, Governor Pat Brown to hear them describe
4 their vision for the University and the newly approved Master
5 Plan for Higher Education.

6 Our imaginations were enlivened by Governor
7 Brown's description of the need to support California's
8 educational infrastructure, as well as its water and
9 transportation infrastructure.

10 I never lost sight of that vision. I attended
11 Berkeley at the very beginning of the Free Speech Movement,
12 living with polarized conflict ongoing. It was classmate
13 against classmate, student against administrator, faculty
14 conflicted on all sides; everyone's emotions ran high. No one
15 seemed to be listening to the other side.

16 That experience taught me some life-long lessons:
17 to respect differences of opinion; that there isn't one right
18 way to view things; that everyone's perspective must be valued;
19 and that you have to work extremely hard to hear what the other
20 side is saying.

21 After graduation, I became a Coro Foundation
22 Fellow, a nonpartisan public affairs training institute for
23 leaders. My career in community service has been devoted to
24 education, life-long learning, public policy, and the arts. I
25 was honored to receive UC Berkeley's Rosalie Stern Award for
26 Community Service.

27 You have my professional credentials in front of
28 you, so let me briefly talk about what I think I bring to the

1 Regents: an ability to work through complex organizational
2 structures and produce results. With estimates of campus
3 enrollment expected to grow to 210,000 by the year 2010, an
4 increase of 60,000 more than currently enrolled, we must
5 proactively meet the projections in a cost effective way that
6 maintains quality education.

7 As a former Secretary of the State and Consumer
8 Services Agency, I have first-hand experience overseeing capital
9 improvement and land use issues for the state. This is
10 especially critical given the deferred maintenance, seismic
11 retrofit, and facilities planning that we face on all ten
12 campuses.

13 I am deeply committed to bringing new voices into
14 the student body, on to the faculty and the work force. I
15 believe our diverse cultures have made California the great
16 state that it is, and that the University must reflect that
17 because we learn from each other as well as from the
18 curriculum.

19 Further, the University will not fully serve the
20 state unless we educate students of every race and
21 socio-economic background. I believe in collaboration and
22 shared governance. I hope that I am a builder of consensus.

23 In my 11 months as a Regent, I've had the
24 opportunity to visit and meet faculty, students, and
25 administrators on seven of our ten campuses so that I can better
26 understand each campus' issue first-hand.

27 It is the University that brought me to
28 California. It educated me. It gave me many of the values that

1 I hold dear, and I am extremely honored to be sitting before you
2 today.

3 CHAIRMAN BURTON: How familiar are you with the
4 UC-Stanford Med. Center merger?

5 MS. KOZBERG: Becoming more and more familiar
6 with the issue. It's extremely serious.

7 I was not on the Regents when the decision was
8 made. It's extremely confusing for the newer Regents on the
9 Board.

10 I am deeply concerned because these are two great
11 medical institutions that have been impacted by this merger and
12 the entire health care of the San Francisco area.

13 CHAIRMAN BURTON: How are the Regents dealing
14 with this? As I understand, during the last full meeting there
15 was a discussion and some information. Then a health, or some
16 kind of subcommittee.

17 MS. KOZBERG: I'm on that subcommittee.

18 CHAIRMAN BURTON: So, when are your hearings?

19 MS. KOZBERG: We had meetings --

20 CHAIRMAN BURTON: When is whatever --

21 MS. KOZBERG: -- May meeting. There was public
22 testimony taken at this past meeting. In July, we'll be
23 devoting a full day to the meetings. I believe it's July 14th.

24 CHAIRMAN BURTON: What my office will probably do
25 is to get you some of the background as we see it, and other
26 members of that subcommittee.

27 When the merger was first and announced, my gut
28 told me it wasn't going to work. I listened to people that were

1 smarter than me, but I guess their guts weren't as good as mine,
2 and thought that it may be worth pursuing. We worked very hard
3 to put the new entity under the Public Records Act and other
4 things.

5 Then, when the problem focused on the money
6 problem, as you probably know, at the beginning it looked like
7 Stanford was getting the better of the deal because Cal was
8 bringing in more assets. Now the Stanford end is doing better.
9 The Cal end is weaker.

10 Our concern was that they were not going to lay
11 off a lot of people. They went out and hired a thousand,
12 basically not a lot of them caregivers. Then they started
13 laying off people, a fair piece of them caregivers, some of them
14 lower level employees that have been with the hospital for
15 years.

16 When we tried to get the information from Peter
17 Van Etten and Isaac Stein, at first they wouldn't give us how
18 much they were paying this consultant that was telling them what
19 to do. I think they're paying him, it'll be a total of almost
20 six million for the contract.

21 They resisted it, so we said, fine, we'll cull
22 the papers to sue you under the Open Records Act. Sure enough,
23 they gave us the information. The only pass we gave on Open
24 Records is what loosely could be called proprietary information,
25 that the public shouldn't know what kind of deal they're giving
26 this group because then the other group would use it.

27 So, I'm very interested in that. I have no idea
28 what the end solution is, and what the termination of it, of the

1 merger, would be. But it's something that, in my opinion, the
2 present leadership of that hospital has not been forthcoming to
3 us. I don't think they're forthcoming to the Regents.

4 I think how the deal was brought together, in my
5 judgment, was like at a conference. And I think Isaac and
6 Peter, and maybe one other, were walking down, "Wouldn't it be a
7 great deal if we created this big thing," and the next thing it
8 happened.

9 And now there's serious ramifications. So, this
10 is really going to tax us.

11 I just would encourage you very much to just ask
12 all the tough questions. Don't get stone-walled on anything.

13 I don't know what's best. I don't know if
14 blowing the merger up, and we can do that in the Legislature, is
15 best. I don't know if continuing -- I don't know what is best.

16 But to have allowed them -- and I don't know
17 whether you have joint management -- how is it set up? Is it
18 like four Regents, four Stanford Trustees, and somebody else?

19 MS. KOZBERG: There are three members of the
20 Regents that serve on the board. Stanford has an equal number,
21 and the independently selected members of the board.

22 CHAIRMAN BURTON: Independently selected by the
23 joint groups?

24 MS. KOZBERG: Yes, as I understand it.

25 CHAIRMAN BURTON: They're independents who are
26 selected. They aren't independently selected?

27 MS. KOZBERG: I can't answer that, but I will
28 have an answer for you.

1 CHAIRMAN BURTON: I guess the point is that to
2 me, it's the height of irresponsibility what they did by going
3 out, and when everybody was concerned -- not everybody, but a
4 lot of our concerns, the concerns were: what's it going to do
5 to health care access; and how many people will lose their jobs.
6 And they went out and hired a thousand. Which then, now they're
7 in the processes of firing cafeteria workers and laundry
8 workers.

9 So, it's something that the whole San Francisco
10 delegation is watching carefully. If I even had an opinion or
11 an answer, I would try to get you to agree with me, but I don't
12 know. It is a tough one.

13 And I think that these people, including Peter
14 Van Etten, have to be held accountable for what they did,
15 because what they did was stupid. And if this merger was a
16 great idea, what they did could send it right down the tubes.

17 Do you have your family here?

18 MS. KOZBERG: I do. I have my husband, Roger.

19 CHAIRMAN BURTON: Another appointee. Welcome.

20 Senator Lewis.

21 SENATOR LEWIS: Good morning.

22 MS. KOZBERG: Good morning.

23 SENATOR LEWIS: I wanted to just tax your memory
24 for a second.

25 Thinking back to your undergraduate days at
26 Berkeley, what percentage of your classes back then were taught
27 by professors versus teaching assistants?

28 MS. KOZBERG: In lower division, I probably had

1 less contact with professors than I did in upper division. But
2 I know that the ratio at that point was 14-1 in the '60s. It's
3 now almost -- it's 18-1.

4 SENATOR LEWIS: My understanding is that now for
5 undergraduate classes at Berkeley, 60 percent of the classes are
6 taught by TAs.

7 Do you think that there should be any kind a
8 minimum teaching requirement for professors?

9 MS. KOZBERG: I believe that there are standards
10 for the case load that you have as a teacher. I have seen in
11 statistics, and obviously, this was a very big concern because
12 in 1992, in the Budget Act, they asked that the UC monitor the
13 amount of teaching time that the professors spent in the
14 classroom. That has to be submitted to Legislature every year.

15 It has gone up 12.1 percent since the time the
16 Legislature first asked for it.

17 SENATOR LEWIS: That's a step in the right
18 direction.

19 What is your thought about the new four percent
20 admissions requirement? I think there's a concern that that
21 might be punitive towards students that just happen to attend
22 really excellent high schools.

23 MS. KOZBERG: In looking at the statistics, and
24 the University ran a number of statistics, factoring in all the
25 questions, there was not displacement of existing students, so
26 that there was nothing that was punitive.

27 I am supportive of the four percent. I think
28 UC's reach should be throughout the state. I think it creates

1 opportunity, and that we are a public institution where there
2 had been no opportunity before.

3 I think it does address the issues of diversity.
4 We have fabulous outreach programs. They are doing a very good
5 job, but those outreach programs are in general proximity of the
6 campuses or in satellite locations, so that the whole state is
7 not benefitting from those outreach efforts.

8 SENATOR LEWIS: I haven't seen the study, but
9 could you just take a second and explain to me how it's possible
10 that if you have a four percent quota, basically, that if you
11 have one or a excellent high school, where you have so many high
12 performing students, but then you can only take the top four
13 percent there, how is it humanly possible that there's not some
14 displacement?

15 MS. KOZBERG: What we are doing is expanding the
16 pool. Right now we're taking 11.1 percent of those students
17 that are eligible. We have the obligation under the Master Plan
18 to take 12.5. So, we are expanding the pool. So that four
19 percent is our way of meeting our obligation to expand. So that
20 we are not displacing.

21 Any student that comes from a fine institution,
22 as you said, will have the opportunity to go to a UC school.

23 That question was asked in a very strong way by a
24 number of Regents. It was also asked by Governor Davis.

25 SENATOR LEWIS: I'm somewhat skeptical.

26 MS. KOZBERG: That will be monitored. This
27 program will be evaluated.

28 SENATOR LEWIS: Lastly, what's your thought about

1 what the UC system should do in terms of the number of campuses
2 in under-represented areas?

3 MS. KOZBERG: Well, we will be opening UC Merced.
4 There is a strong commitment there. I think that the Valley has
5 an enormously diverse population, as well as a high unemployment
6 rate.

7 UC Merced is something, I think, is very -- an
8 important commitment. Actually, it was referenced in the Master
9 Plan for Higher Education, that we open a Central Valley
10 campus.

11 I would want to look very carefully at the
12 numbers as far as expansion because that bubble of population
13 that gets us at 2010 is due to diminish after that point, so you
14 have to be very careful about what you build so that it's cost
15 effective.

16 But you don't know what the demand for higher
17 education will be as we continue to be a changing,
18 knowledge-based society, so that you have more four-year college
19 students entering than ever before throughout the nation.

20 SENATOR LEWIS: Questions from other Members?
21 Senator Knight.

22 SENATOR KNIGHT: Thank you.

23 Ms. Kozberg, when you talk about the top four
24 percent being accepted, and if you remember, we're going to
25 institute a high school graduation test requirement on all our
26 students, is that four percent of the grade, of the GPA of the
27 students, or four percent of the test results?

28 MS. KOZBERG: It would be the GPA, and the

1 students would be notified at the end of their junior year.

2 SENATOR KNIGHT: So, the tests would have no
3 bearing on the --

4 MS. KOZBERG Not as currently structured.

5 SENATOR KNIGHT: Do you think it should, or would
6 there be any discussion on which way to go?

7 MS. KOZBERG: Well, I think that by the time you
8 make, application you're normally notified.

9 SENATOR KNIGHT: I'm talking later on, after
10 we've established the graduation test requirements for students.
11 We put that in, and so now students will have to pass the test
12 before they graduate from high school.

13 MS. KOZBERG: I would hope that any UC admitted
14 student would graduate extremely well since they're in the upper
15 four percent of their class.

16 SENATOR KNIGHT: Well, we're talking about that
17 top four percent, and I'm asking, does that test, would that
18 figure into establishing the top four percent?

19 MS. KOZBERG: No. I think it's sequentially.
20 Admission to a university would come before the test.

21 SENATOR KNIGHT: The test comes in the 10th or
22 11th grade, I think.

23 MR. HERNANDEZ: It starts, but it's not complete.

24 MS. KOZBERG: Well, I certainly think we're on
25 new ground. I assumed that the test came at the end, and I'm
26 sorry, I haven't tracked it as well as I should.

27 SENATOR KNIGHT: No, I know it doesn't come at
28 the end.

1 CHAIRMAN BURTON: It comes, I think, all the way
2 through, 10, 11, and 12.

3 SENATOR KNIGHT: But there is a final.

4 CHAIRMAN BURTON: So, one of them is at the end.

5 SENATOR KNIGHT: Yes, well, not at the end of the
6 12th grade. I don't think they take one in 12th grade.

7 CHAIRMAN BURTON: I thought.

8 Didn't you pay attention during the Special
9 Session.

10 [Laughter.]

11 SENATOR KNIGHT: Somebody was always talking, and
12 I couldn't think.

13 CHAIRMAN BURTON: We're going to move you away
14 from Mountjoy.

15 [Laughter.]

16 CHAIRMAN BURTON: Senator Baca.

17 SENATOR BACA: Thank you, President Pro Tem.

18 First of all, Joanne, I plan on supporting your
19 confirmation to start off with, but I want to ask a series of
20 questions.

21 I'll just piggy-back on what was just stated
22 right now. And I think what you meant to say was that in
23 reference to the top four percentile that'll be admitted, and
24 one of the reasons why we're going to the Master Plan is that
25 kids now then will have the accountability, and the test scores
will be a lot better, so the opportunities for them to get in
and to meet the requirements are going to be a lot better.

28 Isn't that true, based on what the Governor wants

1 to implement now?

2 MS. KOZBERG: Yes.

3 SENATOR BACA: So therefore, that's how the
4 compliance will be. Then the students then will be achieving at
5 a higher level. Test requirements will also be there. So, it
6 makes it a lot easier in reference to individuals getting into,
7 and hopefully we can have diversity.

8 I'm glad you answered that.

9 MS. KOZBERG: Thank you, Senator. That's a much
10 better answer.

11 SENATOR KNIGHT: Thank you.

12 SENATOR BACA: One of the questions that I have
13 is, I'm very much concerned in a lot of areas.

14 First of all, I want to thank you for sending me
15 the article from the L.A. Times, and then following up on a good
16 friend of mine, Juan Lotta, that I knew that worked at UCLA. I
17 appreciate that.

18 But one of the areas that I'm concerned with is
19 the under-representation of especially minorities -- Latinos and
20 African-Americans, and others -- attending the University of
21 California. Latinos now represent about 30 percent of the state
22 population. However, the latest report from the California
23 Post-Secondary Education Commission shows that only 12 percent
24 of the students are attending all the UC campuses.

25 Why do you think this is happening?

26 MS. KOZBERG: Well, I think we need to do a
27 stronger job in out reaching at the fundamental K-12 level, so
28 that we ensure that all young people have the basic scholastics

1 to compete to get into the University.

2 SENATOR BACA: I agree with you.

3 What kind of outreach then needs to be
4 developed? I think I talked to you, Joanne, whether it be done
5 with community colleges or whether it be done at the K-12, but
6 outreach needs to be established.

7 What are the elements that you think that we
8 should do to enhance outreach, both community college, transfer
9 community colleges to our universities; likewise, our outreach
10 that needs to be done in our K-12?

11 MS. KOZBERG: We need a multiple pronged
12 approach. We need to start with the fundamentals in elementary
13 school, followed by middle school, and at the high school level,
14 as well as community colleges. They are an extraordinarily
15 strong feeder for the UC system, and they have a great deal more
16 diversity.

17 So right now, I know that they're up 9 percent in
18 applications this year. And we need to do a much better job of
19 making it -- providing information about the University; making
20 it easier to access the University; ensuring that the students
21 at all levels are competitive; that they are recruited. And
22 then once on the campus, that the transition is a successful one
23 so that they can be retained.

24 SENATOR BACA: Do you know of any successful
25 programs that are currently going on right now in outreach in
26 our K-12?

27 MS. KOZBERG: There are extraordinary programs
28 going on now. I think one of the most successful ones are the

1 partnerships with the schools. And there are now 60 schools
2 that are around the state that are in these partnerships, where
3 you have basically a contract with the parents and the teachers
4 and the counselors, which are very important in these schools.
5 They're elementary, middle and the secondary schools.

6 And then, that is matched with a commitment from
7 the UC campus, from the students, from the administrators, from
8 the faculty, and from the Chancellors. And we are seeing a lot
9 of success.

10 So, it's a very long term. You know, we've got
11 to get in, and we've got to know that we won't see huge success
12 immediately. And that's one of the reasons, I think, the four
13 percent is an important approach, because it's more near term.
14 So that we need a multiple approach to ensuring that we create
15 access for all Californians.

16 SENATOR BACA: One of the other areas that I'm
17 concerned with, being a former trustee member for a community
18 college, is the transfer of students from the community colleges
19 to our 10 campuses. I know that it becomes difficult.

20 It's a lot easier to get in from a K-12 than it
21 is from a community college. You have honors programs, you have
22 other programs, but it becomes difficult if a student does not
23 have the 4.0 average.

24 What can be done in assuring that students have
25 equal access from a community college or a state university?

26 MS. KOZBERG: I think probably the most
27 successful paradigm I'm seeing now in the transferability -- and
28 again, this issue needs to be approached in a multiple pronged

1 way, too, because it's not just what they called articulation,
2 which is ensuring that one course at the community college
3 matches the course that would be given at the university level.
4 But there are whole difficult issues of financial aid, housing,
5 part-time versus full-time. A number of issues that need to be
6 attacked so that the community college student is comfortable
7 and finds a successful way to accomplish an ambitious four-year
8 program.

9 Probably the most successful community college
10 program is now in Orange County. That's the Orange County
11 Transfer Alliance. And they have -- the goal was to ensure that
12 we had six percent a year transferring. Their statistics,
13 though they haven't got the statistics of those that have
14 enrolled, but their applications are up 15 percent. And they
15 have done a remarkable job.

16 So, there are successful pilots throughout the
17 state that we need to enlarge upon.

18 SENATOR BACA: Thank you.

19 I hope that you continue to look at that area.
20 And I hope that you look at lower division courses that are also
21 offered at our community colleges that do meet the transfer
22 requirement, because I know that a lot of it is based on the
23 professor who is teaching a particular subject, which means you
24 either purchase their book, you have their class, even though
25 they're both 1-A classes.

26 So, I hope that we look at a type of curriculum
27 that will allow the transfer of students from our community
28 colleges based on lower division. I'd just like you to continue

1 to explore that, and look at that.

2 Another question that I have is, as we look at
3 diversity and tenure, it seems like it's very difficult for
4 minorities and others to attain tenure at our Universities.

5 I'd like you possibly to look at to allow parity
6 in having the numbers that need to be increased, because I don't
7 see us. And as I see African-Americans, Latinos, and others who
8 complied with research, have done everything, but somehow, don't
9 get tenure. And yet it's not reflective of the student
10 population, and it's not reflective of California's diversity
11 in our faculty.

12 MS. KOZBERG: There was a very interesting report
13 that was issued. It was a faculty report headed up by
14 Chancellor Pister who, coincidentally, is heading up the
15 University's outreach effort. He recommended a widening of the
16 areas for which you receive credit for tenure as you are looked
17 at for your merit increase. I think that that's a report that
18 should be looked at again.

19 So, as I understand it now, you're normally given
20 40 percent credit for your time in classroom, 40 percent for
21 research, and then public service is about 20 percent.

22 I think that we should probably look at more
23 tenuring being done on the basis of applied research, where
24 you're looking at a particular societal problem. And I think
25 that that might help.

26 But I think that the faculty should pull out this
27 report again.

28 SENATOR BACA: Again, I'd like to hopefully see

1 some improvements in that area, and allow fairness to allow
2 individuals to obtain the tenure, and then to allow the
3 diversity to reflect our communities.

4 Another area that I'm very much concerned is, as
5 we see the lack of teachers and the need for teachers in
6 California, it's estimated that 275 teachers over the next ten
7 years. Currently, we have about a 31,000 shortage.

8 And it seems like our universities are not doing
9 the job, not only in terms of recruitment, but also in
10 preparing.

11 What do you believe is the problem, and what
12 changes need to be done?

13 MS. KOZBERG: First of all, I think we need to
14 recognize teaching as a very important profession. I think that
15 that's a key element.

16 UC has recommitted itself to teacher education.
17 And we are running a number of teaching academies this summer,
18 but also will be working heavily with the student population to
19 encourage them to go into that profession.

20 SENATOR BACA: Thank you.

21 Another question, referring to the medical
22 schools. Studies have indicated that there are quite a few
23 minorities that are amongst the top percentile, but somehow are
24 not getting into the medical schools, especially in the San
25 Diego area and others, where African-Americans and Latinos and
26 others qualified and were amongst the top, but yet were not
27 accepted.

28 Hopefully, you'll look at that to assure that

1 there's a fair processes and that there's an equal number. I
2 hope you look at that.

3 MS. KOZBERG: I will.

4 SENATOR BACA: One final question that I have,
5 and that pertains to contracting out. The Regents does a lot of
6 contracting out. Hopefully, as we look at contracts going out,
7 I'd like to see the reflection of Latinos, African-Americans,
8 and other minorities be reflected in contracting out as well,
9 because there's billions and billions of dollars that are done
10 through the University, yet in proportion of those contracts,
11 I'd like to see an improvement in that area. Hopefully, that
12 you'll have an oversight that you can look at and reflect back
13 at the type of contracts that are going out.

14 MS. KOZBERG: Thank you. I have not had the
15 opportunity to look at that, but I will take the opportunity.
16 Thank you.

17 SENATOR BACA: With that, I move her
18 confirmation.

19 CHAIRMAN BURTON: Senator Lewis.

20 SENATOR LEWIS: You agree with the concept that
21 we have under representation of certain minority groups in the
22 UC system?

23 MS. KOZBERG: Yes.

24 SENATOR LEWIS: What is the percentage of Asian
25 American enrollees in the UC system?

26 MS. KOZBERG: I'm not quite sure that I have that
27 statistic. Steve Arditti is here and probably could answer
28 that.

1 MR. ARDITTI: I believe it's about a third across
2 the University, varying from campuses. More so, for example, at
3 Irvine in your area, Senator.

4 SENATOR LEWIS: About a third system-wide.

5 Roughly, do you know what the population, the percentage of
6 Asian population of California is?

7 MR. ARDITTI: Much less than that. Asian
8 American young people achieve UC eligibility at the rate of over
9 30 percent of each high school graduating class, even though the
10 average for the state as a whole is about 12.5 percent.

11 SENATOR LEWIS: So, in your view, do you think
12 Asian Americans are an over-represented minority group?

13 MS. KOZBERG: I'm not calling anyone over.

14 I think that what we need to do is strive for
15 meritocracy and diversity. I think you can do both.

16 CHAIRMAN BURTON: Briefly, the top four percent,
17 that's the top four percent of anybody who is top four percent
18 of their own school?

19 MS. KOZBERG: That's correct.

20 CHAIRMAN BURTON: So, conceivably, if you do
21 that, somebody who is either just equally as qualified or maybe
22 a bit better could be frozen out by somebody? Because, if you
23 take all the top four percent, there might not be any more room
24 then, so they have to figure out how to deal with that, I guess,
25 as the process moves forward?

26 MS. KOZBERG: That's why we're going to take a
27 lot of monitoring of this situation. But there are a number of
28 tracks that go into the UC system. And this would be one of the

1 tracks into the system.

2 CHAIRMAN BURTON: What are the other tracks
3 besides high school? We just heard the community college one
4 isn't too good.

5 MS. KOZBERG: The community college is improving,
6 but there's a lot of room for growth there.

7 CHAIRMAN BURTON: Is that because of snobbery or
8 what?

9 MS. KOZBERG: In looking at this issue, and I've
10 been grappling with it, I think a lot of it is because the
11 independent -- the colleges are run by local governance. Each
12 one has its own governance. So, coming together with the
13 faculty and what they call the articulation, and agreeing that
14 one course at a community college is the same as a course at UC
15 becomes an issue.

16 I also think it really is the fact that the
17 community colleges are carrying out so many tasks. They're
18 doing our vocational education, as well as college preparatory
19 work. So that, you know, and they don't have the amount of
20 counsellors in there.

21 CHAIRMAN BURTON: Thank you.

22 Witnesses in support, please.

23 MS. THARP: Senator Burton, Members of the
24 Committee, I'm Carol Baker Tharp from Los Angeles. I'm the
25 Executive Director of Coro, Southern California, but I'm
26 speaking for myself today.

27 In respect for your time, I'll submit my remarks
28 in writing.

1 CHAIRMAN BURTON: Thank you very much.

2 MS. THARP: Bud I would like to say as a voter
3 who thinks that public education is the backbone of a free
4 society, I can't think of anyone I would rather have helping to
5 make policy for my state's university system than Joanne Corday
6 Kozberg.

7 MR. LAMBERT: Bill Lambert, United Teachers of
8 Los Angeles. I have a written few remarks I'd like you to read.

9 [Laughter.]

10 MR. LAMBERT: As a graduate of the University of
11 California, it's been my pleasure to know Joanne in many
12 capacities, especially in the education field. It is so nice
13 every once in a while see such an outstanding person being
14 recognized for such an important job, and the beneficiaries are
15 all the students in the State of California.

16 I strongly recommend her approval.

17 CHAIRMAN BURTON: Thank you.

18 Witnesses in opposition?

19 MR. PURSLEY: Chairman Burton, Members of the
20 Committee, Peter Pursley with the UC Student Association.

21 Our concern is that the processes for approving
22 an appointment is apparently not being followed.

23 The State Constitution requires the Governor
24 appoint an advisory committee which has a student
25 representative. Our organization appoints that student
26 representative. The committee has not been convened.

27 I was referring to Article IX, Section 9.

28 CHAIRMAN BURTON: Excuse me.

1 The meeting took place last July when she was
2 nominated by Senator Wilson.

3 MR. PURSLEY: Then, for some reason, we were over
4 looked in the composition of that committee.

5 CHAIRMAN BURTON: You'd have to bring that up
6 with Governor Wilson.

7 MR. PURSLEY: Okay.

8 CHAIRMAN BURTON: In other words, Ms. Kozberg's
9 nomination went through the processes. She was nominated by
10 Governor Wilson a year ago. And the process did happen then.

11 And Governor Davis, because of her
12 qualifications, you know, did not withdraw her, as he did some
13 of the other Regents. So, she did go through that process.

14 Why your group was or was not in it --

15 MR. PURSLEY: We'll look into that. I'll
16 withdraw my remarks.

17 Thank you.

18 CHAIRMAN BURTON: Thank you.

19 Moved by senator Baca. Call the roll.

20 SECRETARY WEBB: Senator Baca.

21 SENATOR BACA: Aye.

22 SECRETARY WEBB: Baca Aye. Senator Knight.

23 SENATOR KNIGHT: Aye.

24 SECRETARY WEBB: Knight Aye. Senator Lewis.

25 SENATOR LEWIS: Aye.

26 SECRETARY WEBB: Lewis Aye. Senator Burton.

27 CHAIRMAN BURTON: Aye.

28 SECRETARY WEBB: Burton Aye. Four to zero.

1 CHAIRMAN BURTON: Congratulations.

2 Mr. Rosenberg.

3 MR. ROSENBERG: Chairman Burton, Vice Chairman
4 Lewis, Senators Baca and Knight, thank you for the in
5 opportunity to address you. I hope to make some very brief
6 remarks, and then answer your questions. I'll divide my remarks
7 into two segments.

8 First, I'd like to tell you who I am, then I'd
9 like to tell you of my impressions of the California state
10 Lottery.

11 Who am I? Well, I am 52 years of age. I've been
12 married for 31 years. In fact, today is my wedding
13 anniversary.

14 SENATOR KNIGHT: Congratulations.

15 MR. ROSENBERG: I have two adult children and
16 one grandchild.

17 I actually came over on the boat. I'm the son of
18 Holocaust survivors and came over to Ellis Island.

19 I have two degrees here in California: a
20 Bachelor of Science Degree from Cal Poly in journalism, and a
21 law degree from the University of California at Davis, which I
22 received in 1974.

23 I've been a lawyer for 25 years. I have a small
24 home-town law practice in Davis. I have actually dedicated my
25 adult life to public service. I'm a veteran of the United
26 States Army, having served as an officer in the Adjutant
27 General's Corps.

28 I have served as President of the Legal Center

1 for the Elderly and Disabled. I was a member and, in fact,
2 Chair of the California Law Revision Commission, which I saw
3 here earlier on.

4 CHAIRMAN BURTON: Can you give us some thoughts
5 about the Lottery, because we have your bio. Thanks.

6 MR. ROSENBERG: My impression of the Lottery.

7 I have found -- I've been there for three months,
8 having been appointed by the Governor, and I found that everyone
9 has and opinion of the Lottery. It is the --

10 CHAIRMAN BURTON: Nobody can do anything about
11 it, just like the weather.

12 MR. ROSENBERG: Hopefully, the Commission has
13 some jurisdiction.

14 But it is the will of the people. The folks in
15 California enacted the law in '74 -- excuse me, '84 -- and every
16 poll I've seen since then indicates people think the Lottery is
17 what they want. So, there it is.

18 It is unique in state government as I have
19 found. It is a substantially large business. It's
20 two-and-a-half billion dollars a year in sales.

21 I think the concept of a Commission is
22 appropriate, because it provides that level of citizen oversight
23 that is important.

24 I think that the Lottery affords one a public
25 responsibility. I think the Lottery has a responsibility, for
26 example, to undertake some efforts, some leadership, on the
27 issue of problem gambling and pathological gambling. I intend
28 to involve myself in that actively.

1 I reviewed the National Gambling Impact Study
2 that was recently issued by the federal government, and I
3 frankly agree with a number of things that were indicated,
4 including the issue of problem gambling, and I will address that
5 while on the Commission.

6 For the vast majority of people in California,
7 however, it's a game. It's a dream, and it's supposed to be
8 fun.

9 My goals are the following. I hope to operate
10 the Lottery with integrity, with honesty, and with fairness. I
11 want to make sure that we funnel as much of the revenue as we
12 can to education. To date, something like \$10.7 billion has
13 been provided to education. It's a bit invisible in the sense
14 that it is distributed based on ADA to the school districts, the
15 University of California, the State Colleges and others. And it
16 comprises about two percent of their budgets. Yet, it's
17 important because it is discretionary money.

18 I want to utilize the best practices from around
19 the county. The California Lottery is not unique. There are 37
20 other states that do operate lotteries. We should be looking at
21 them, and frankly, other countries to see what they do well.

22 CHAIRMAN BURTON: You can't change the ratio;
23 right?

24 MR. ROSENBERG: Which ratio? The money to
25 education?

26 CHAIRMAN BURTON: Yes.

27 MR. ROSENBERG: Yes. There are two ways that the
28 ratio can be changed. The minimum ratio, as you know, is

1 established by law. We're required to provide at least 50
2 percent of the revenue back in prizes. And we're required to
3 provide --

4 CHAIRMAN BURTON: That's gross revenue?

5 MR. ROSENBERG: Yes.

6 At least 50 percent goes to prizes. At least 34
7 percent goes to education. And no more than 16 percent goes to
8 what's called administration.

9 CHAIRMAN BURTON: So, the best you'd be able to
10 do would be to reduce administration by a point and send it over
11 to ed., or ten points, or whatever?

12 MR. ROSENBERG: There's two answers to that
13 question. The first answer is yes.

14 CHAIRMAN BURTON: And the other is no.

15 MR. ROSENBERG: The second one is -- no, no.

16 Under the current law, the only way to really
17 make adjustments is to reduce the amount of administration. In
18 fact, that's been done. As I looked at the numbers, the
19 administrative expenses had been reduced to 13.5 percent, and
20 the actual money to education is 36 percent.

21 So, the other way to do so it is, frankly, to
22 change the law. If you want to talk about that later in your
23 questions, I'd certainly be prepared to do that.

24 CHAIRMAN BURTON: Put it to a vote of the
25 people?

26 MR. ROSENBERG: Ultimately, yes.

27 CHAIRMAN BURTON: And have them reduce the prize
28 level.

1 MR. ROSENBERG: No.

2 CHAIRMAN BURTON: Where else would you get the
3 money? Is there a fourth place?

4 MR. ROSENBERG: I've looked at what other states
5 are doing. And they return a substantially higher amount to
6 their beneficiary than California does. Their sales are
7 substantially higher than California.

8 California number 32 in terms of sales per
9 capita. We're just behind Idaho.

10 The way they do it is to increase prizes. By
11 increasing prizes, the revenue goes up substantially. When the
12 revenue goes up, the pie is larger, and so the slice that goes
13 to education can be larger.

14 But that's not something we needs to deal with
15 today, but it's something we ought to be looking at.

16 CHAIRMAN BURTON: To quote our dear friend, Ken
17 Maddy, the Lottery is probably the worst gamble in the whole
18 State of California percentage-wise.

19 The people that put it on, the people that did
20 the deal whenever the hell it was, '82, I think, or somewhere
21 around there. What is their take?

22 MR. ROSENBERG: Their take is going down. The
23 contract is about to expire in about four years. Pursuant to
24 that contract -- you're talking about, I think, G-Tech, actually
25 the Lottery has a huge number of contracts with various --

26 CHAIRMAN BURTON: Somebody spent the money to put
27 this on the ballot and pass it, and they did it to make money.
28 How much money did they make out of it?

1 MR. ROSENBERG: I couldn't tell you, sir. I have
2 not researched that point.

3 CHAIRMAN BURTON: There's a dollar that's taken
4 in.

5 MR. ROSENBERG: Correct.

6 CHAIRMAN BURTON: Somebody's getting a piece of
7 that off the top.

8 I'm not necessarily against it. I'm just
9 wondering what they make. We don't know what they make?

10 MR. ROSENBERG: I can tell you exactly where that
11 dollar goes right now. I can't answer what happened in '84.

12 CHAIRMAN BURTON: Well, right now, then.

13 MR. ROSENBERG: Right now, for every dollar that
14 comes in to the Lottery, gross dollars, and it's about
15 two-and-a-half billion of them, 52 percent goes back to the
16 players in prizes; 36 percent goes to education, distributed
17 based on ADA; and the remaining 13.5 percent is used in the
18 category called administration.

19 CHAIRMAN BURTON: How is that cut up?

20 MR. ROSENBERG: That's what I want to address
21 now.

22 Administration is cut up as follows. About just
23 under 7 percent of that, that 13.5 percent figure, 7 percent
24 goes back to the retailers, the people that sell the tickets; 4
25 percent goes to the actual operating expenses of the Lottery,
26 paying the salaries of the people that run the Lottery.

27 CHAIRMAN BURTON: That work for the Lottery.

28 MR. ROSENBERG: Of the remaining, I think that

1 leaves something like 3.5 percent. That's what's included in
2 gaming costs.

3 CHAIRMAN BURTON: I'm missing something.

4 There was 13 percent roughly --

5 MR. ROSENBERG: I'm taking 7 percent out of
6 that.

7 CHAIRMAN BURTON: All right, so 7 is out, so you
8 got 6; 4 is somewhere, and then you got 2 --

9 MR. ROSENBERG: It's actually more like 3 point
10 something that goes --

11 CHAIRMAN BURTON: And that goes to G-Tech or
12 somebody?

13 MR. ROSENBERG: The contractors. That's the cost
14 of running the games.

15 CHAIRMAN BURTON: They are the people that came
16 to us about the Lottery.

17 I'm not against it. I'm just trying to
18 understand it.

19 Okay, and there's no way, because that was also,
20 I would assume, built in.

21 The 13 percent is built into the Constitution.
22 And we're just saying 13 percent.

23 That 13 percent, is that cut up by the
24 Constitution, or cut up by statute, or can that be changed?

25 MR. ROSENBERG: Yes, it is not cut up by the
26 Constitution.

27 CHAIRMAN BURTON: So, you can reduce the 75
28 million to Company A?

1 MR. ROSENBERG: The only thing the Constitution
2 requires, the Lottery Act, is that no more than 16 percent be
3 spent for administration. So, that is within the discretion of
4 the Commission; correct.

5 CHAIRMAN BURTON: So, the Commission could
6 basically reduce what whoever's brought us the Lottery is
7 making, if they so desire?

8 MR. ROSENBERG: Without breaching current
9 contracts, yes, but in future contracts, absolutely. We have
10 discretion. We could make other adjustments. For example,
11 right now --

12 CHAIRMAN BURTON: I'm talking about the people
13 that brought the Lottery to us. John Lewis and I got together
14 and say, "I've got a hell of an idea. We do this. We front it
15 for education. We sell the machinery, and we take our rent."

16 If they're getting 75 million roughly now,
17 probably in the earlier years they were probably getting --

18 SENATOR LEWIS: Are they still the same
19 contractor?

20 CHAIRMAN BURTON: I don't know. I would assume
21 they had to put something in there. I mean, they didn't come in
22 here to give two cents to the school.

23 I mean, what I would love is for you at some
24 point to go back, and somebody can do it, find out how much
25 money it is these people have gotten, are getting, and can it,
26 in point of fact, be reduced.

27 I would bet that their contract ran to the year
28 2000-and-whatever, and you probably can't touch it. In the

1 future, I don't know whether or not you have to go back to them
2 or someone else.

3 It's more of a matter of idle curiosity for me.
4 I always wondered what their return on the investment was.

5 MR. ROSENBERG: Number one, I would be happy to
6 do that.

7 Number two, any future contracts will be
8 competitively bid.

9 CHAIRMAN BURTON: All right.

10 Senator Lewis.

11 SENATOR LEWIS: First of all, does Rush Limbaugh
12 have a position on your appointment?

13 MR. ROSENBERG: I haven't asked him. I haven't
14 talked to him recently. Rush Limbaugh and I had a television
15 debate. He was the liberal, if I remember correctly. I took a
16 rather conservative line.

17 SENATOR LEWIS: Very good.

18 The only question I have is that there was a
19 study done recently, an impact study, by the National Gambling
20 Commission. They recommended that the minimum age for playing
21 the Lottery be raised from 18 to 21.

22 What's your thought on that?

23 MR. ROSENBERG: It's an interesting question.
24 That is their recommendation, and I'm still thinking through
25 what the implications are.

26 I recently asked for some statistics, and as best
27 as we can determine, the number of players of the Lottery
28 between the ages of 18, 19, and 20, that is, the ones that would

1 be impacted by such a change, is relatively small. It's less
2 than 10 percent, and probably closer to 6 or 7 percent.

3 It would require a change in the Lottery Act,
4 which would require a vote of the people, because any time you
5 effect the beneficiary, education, you have to take it to the
6 vote of the people. By reducing the number of players, you'd be
7 affecting education. So, ultimately, the people have to decide
8 that question.

9 My guess is, they would vote against that. They
10 have tended to vote against changes like that in the Act.

11 CHAIRMAN BURTON: So, that could be done either
12 by the Commission or by the Legislature by statute, or nobody?
13 It's got to be by Constitutional amendment?

14 MR. ROSENBERG: My belief is, it would have to
15 get the vote of the people.

16 The Commission certainly could not change it, and
17 I do not believe the Legislature could change it.

18 CHAIRMAN BURTON: Probably if we ever wanted to
19 do so some modest reform, that could be the hook.

20 But I still don't think you could ever do
21 anything to reduce the pay out.

22 Senator Knight.

23 SENATOR KNIGHT: You've been known to sue the
24 state. I'm just wondering, now that you're on this side, are
25 you going to sue the state any more?

26 MR. ROSENBERG: I only sue the state when the
27 state's wrong. I will never sue the Lottery.

28 CHAIRMAN BURTON: You could have an ongoing

1 attorney-client relationship with him.

2 Senator Baca.

3 SENATOR BACA: Thank you.

4 David, you've indicated that 36 percent of the
5 moneys now go towards education, and 52 goes back to the
6 winners.

7 Previously, before legislation by a Member that
8 was carried a couple of years back, what was the percentage that
9 was actually going to education at that point? Because, it
10 wasn't until legislation was changed that allowed more money
11 going to education. Do you have a number?

12 MR. ROSENBERG: My recollection, Senator, looking
13 at the numbers, indicated that it was always hovering around 34
14 percent. I believe there was one time when it was just below 34
15 percent, which was not really permissible.

16 But recently, it's been up to 36 percent total.
17 In fact, it's more like 38 percent of sales.

18 The reason the number is a little different is
19 because there are other ways that money goes to education other
20 than through sales of tickets. For example -- and this has
21 always amazed me -- when Lottery prizes are unclaimed, they go
22 directly to education.

23 SENATOR BACA: So, the numbers are quite high
24 that are now going, so education has benefitted since there has
25 been a change in that legislation?

26 MR. ROSENBERG: Yes, although I think it's
27 probably reached the maximum at 36 percent. There's not much
28 more room to play, given the parameters of the Act. Unless the

1 Act were changed, it looks like it's going to be about 36
2 percent.

3 SENATOR BACA: Do you know what Member had that
4 legislation?

5 MR. ROSENBERG: I do not, Senator.

6 Oh, let me check my notes. Oh, yes, Senator
7 Baca.

8 SENATOR BACA: Thank you.

9 Let me ask you another question. Let me ask you
10 question in reference to contracting out.

11 There seems to be some controversy in the past.
12 There's been fights over which company is selected to print the
13 tickets or install Lottery equipment. This is a multi-million
14 dollar contract.

15 The State Lottery is not governed by the same
16 laws that govern the purchase of other state agencies. And the
17 Legislative Analyst suggests that the State Legislature amend
18 the Lottery Act to provide more of an oversight of the
19 Legislature and the Governor through the Department of Finance.

20 Do you believe that the Lottery's contracting
21 procedures are fair to all vendors?

22 MR. ROSENBERG: I won't say that in the past
23 they've been fair to all vendors, because I haven't been there.

24 I will say that that in the future, they will be
25 scrupulously fair. I've attended three meetings of the Lottery
26 Commission. And my intent is to make sure -- in fact, I've also
27 assumed the duty of the Commission liaison on issues of
28 contracting and procurement.

1 I intend to make sure the rules are understood;
2 that they're fair; that virtually everything is competitively
3 bid; and that we have an even playing field.

4 One of the difficulties we have at the Lottery is
5 the problem that lotteries have around the country, and that is,
6 there are very few competitors in the field in some areas. It's
7 almost like, you can buy your cars General Motors, Ford, and
8 Chrysler, except in some cases there are really only two
9 competitors in some areas. So, we have to be aware of that.

10 SENATOR BACA: Should the Legislature change the
11 State Lottery Act to provide the Legislature and the Governor
12 with a greater oversight role?

13 MR. ROSENBERG: In my opinion, I don't see a need
14 for that.

15 The Lottery Act is established the way it is
16 established by the vote of the people, creating an independent
17 Lottery Commission with oversight.

18 If you find that there is a problem in that
19 oversight, and you intend to change the Act, I think you should
20 do that. It will have to go to a vote of the people, I
21 believe.

22 I've only been there for three months. I can't
23 say that you should change the Act.

24 I will tell you this, that I will ensure that we
25 provide every single report and every single piece of
26 information that the Governor and the Legislature would like to
27 receive as long as I'm on the Commission.

28 SENATOR BACA: Thank you.

1 Finally, David, I hope that you'll look into
2 this, and it's a question I've probably asked almost everyone as
3 we look at the diversity of the State of California.

4 Hopefully, that you could look at members that
5 are hired do reflect the diversity of the California, that you
6 can look at what's going on.

7 Sometimes, when we look at trying to reach parity
8 based on the population, it seems like we have not reached
9 parity in terms of the diversity.

10 I hope that you continue to monitor and look at
11 that, and prepare to allow individuals, not only for upward
12 mobility into executive managerial position, but opportunities
13 for employment as well that are reflective of the State of
14 California.

15 MR. ROSENBERG: I will.

16 SENATOR BACA: Thank you.

17 SENATOR LEWIS: Anyone in the audience wishing to
18 testify at this point in time in favor?

19 MR. MICHELI: Mr. Chairman and Members, Chris
20 Micheli with Carpenter, Snodgrass and Associates on behalf of
21 our client, California Image Associates, in support of the
22 confirmation.

23 I've actually known Supervisor Rosenberg since
24 about '87, when he was the Mayor of Davis and I was a student at
25 UC Davis, active in local affairs.

26 Recently, in the last few months, we have had the
27 privilege of working with Mr. Rosenberg on a Lottery Commission
28 matter, and I think that we're very pleased by, number one, his

1 openness and accessibility, despite his multiple hats that he
2 wears as an attorney and a Supervisor for the County of Yolo.
3 And also the fact that he has really rolled up his sleeves and
4 delved into a lot of meaty issues that the Lottery is facing.

5 We've seen him in action in two of the three
6 meetings that he's been at, and again, have been pleased so far
7 with his work, and so we urge his confirmation.

8 Thank you.

9 SENATOR LEWIS: Thank you.

10 Next.

11 MR. HANSEN: Mr. Chairman, Members, Dwight
12 Hansen, representing the California Rehabilitation Association.
13 We are 127 community-based private and nonprofits, providing
14 services to people with disabilities.

15 I want to make sure that you understand that CRA
16 has no position on the Lottery, one way or the other.

17 However, we believe to be worthy of a
18 gubernatorial appointment, you must be a talented person of high
19 integrity.

20 We've had a long-standing relationship with David
21 Rosenberg, and it is my organization's privilege to endorse his
22 nomination and to urge your support.

23 SENATOR LEWIS: Thank you very much.

24 Anyone in the audience wishing to testify in
25 opposition.

26 SENATOR BACA: Move the nomination.

27 SENATOR LEWIS: We have a motion on the
28 nomination.

1 Mr. Rosenberg, there's only three Committee
2 Members here. Two of them are Republicans. Do you feel lucky?

3 [Laughter.]

4 SENATOR LEWIS: Call the roll.

5 SECRETARY WEBB: Senator Baca.

6 SENATOR BACA: Aye.

7 SECRETARY WEBB: Baca Aye. Senator Knight.

8 SENATOR KNIGHT: Aye.

9 SECRETARY WEBB: Knight Aye. Senator Lewis.

10 SENATOR LEWIS: Aye.

11 SECRETARY WEBB: Lewis Aye.

12 [Thereafter, CHAIRMAN BURTON
13 returned to Committee and voted
14 Aye, making the final vote 4-0
15 for confirmation.]

16 SENATOR LEWIS: Congratulations.

17 MR. ROSENBERG: Thank you.

18 [Thereupon this portion of the
19 Senate Rules Committee hearing was
20 terminated at approximately 10:53 A.M.]

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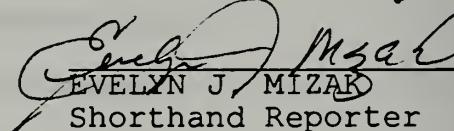
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5 That I am a disinterested person herein; that the
6 foregoing transcript of the Senate Rules Committee hearing was
7 reported verbatim in shorthand by me, Evelyn J. Mizak, and
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9 I further certify that I am not of counsel or
10 attorney for any of the parties to said hearing, nor in any way
11 interested in the outcome of said hearing.

12 IN WITNESS WHEREOF, I have hereunto set my hand this
13 6th day of July, 1999.

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17 9:35 A.M.

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28 Shorthand Reporter

1 APPEARANCES

2 MEMBERS PRESENT

3 SENATOR JOHN BURTON, Chair

4 SENATOR JOE BACA

5 SENATOR TERESA HUGHES

6 SENATOR WILLIAM KNIGHT

7 MEMBERS ABSENT

8 SENATOR JOHN LEWIS, Vice Chair

9 STAFF PRESENT

10 GREG SCHMIDT, Executive Officer

11 PAT WEBB, Committee Secretary

12 NETTIE SABELHAUS, Consultant on Governor's Appointments

13 WADE TEASDALE, Consultant to SENATOR LEWIS

14 FELICE TANENBAUM, Consultant to SENATOR HUGHES

15 CHRIS BURNS, Consultant to SENATOR KNIGHT

16 MANNY HERNANDEZ, Consultant to SENATOR BACA

17 ALSO PRESENT

18 JOSEPHINE DE LUCA, Member

19 California Regional Water Quality Control Board

20 San Francisco Region

21 JACKSON R. GUALCO

22 California Council for Environmental and Economic Balance

23 JOAN PATTON

24 San Francisco Estuary Project

25 FRANCINE DIAMOND, Member

26 California Regional Water Quality Control Board

27 Los Angeles Region

1 JOHN K. SMITH, Member
2 Board of Directors
3 Hastings College of the Law

4 SENATOR DON PERATA
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1 P-R-O-C-E-E-D-I-N-G-S

2 --ooOoo--

3 CHAIRMAN BURTON: Governor's appointees,
4 Josephine De Luca, Member of the Regional Water Quality Control
5 Board, San Francisco.

6 Welcome.

7 MS. DE LUCA: Thank you, Mr. Chairman.

8 CHAIRMAN BURTON: It's been a long time coming.

9 MS. DE LUCA: Indeed.

10 Ladies and gentlemen, I thank you for the
11 opportunity of coming before you this morning. As you know, I
12 am seeking confirmation following the appointment by Governor
13 Davis to the Regional Water Quality Control Board. I've had the
14 privilege of serving in the capacity as a Board Member under
15 Governor Wilson for a full term, and I am truly honored to have
16 had that distinction conferred by the Governor of the opposite
17 party who has significant environmental leanings.

18 I serve as Chair. I wish to be returned because
19 I believe that the San Francisco Bay and its tributaries
20 constitute the jewel in the crown of the California water
21 system. On the Bay depend the health of the population, the
22 health of our economy, the health of our environment. And I am
23 keenly attuned to the public health concerns, since I hold the
24 public seat on that Board.

25 The priorities of Board are clear: enforcement
26 our number one priority, permitting, and monitoring. And all
27 these actions relate and interrelate in a very complicated
28 scheme to create the containment and control of toxic discharges

1 into our water ways.

2 It's important to note that in the '80s, we were
3 dealing with basically the control of suspended solids, water
4 treatment plant problems that we could manage relatively easily.
5 Comparatively today, we have a challenging situation that is
6 evolving as we speak with toxics, carcinogens, and in fact, in
7 some cases, chemicals that have never been seen or analyzed on
8 the face of this planet before as a result of the confluence of
9 the marriage of chemicals that are being used in the new
10 industries that have developed around the Bay in the last 25
11 years. It's a delicate balancing act, maintaining the
12 environment, enhancing it where ever possible, but at the very
13 least, holding the line and allowing the economic engines that
14 move the Bay Area and, in fact, are leading the world in terms
15 of the development of new industries to continue to survive and
16 to thrive.

17 We are served by a staff of 100 very highly
18 qualified engineers and scientists who devise the programs and
19 the policies that lead us in the direction of protecting the
20 environment, and preserving the business climate as well.

21 Let me speak first of enforcement. We permit
22 about 80 major industries, and in the last 25 years, have given
23 over two-and-a-half billion dollars to the effort of cleanup in
24 the water ways. We aggressively enforce point source pollution,
25 and that is done through the processes of having our staff
26 directed very strongly to bring in important and significant
27 recommendations with significant fines attached. We don't
28 flinch from the prospect of levying enforcement fines where

1 they're indicated.

2 One of the more palliative aspects of the program
3 that we employ as an innovation is to permit polluters to assist
4 us in developing mitigation projects, education projects, that
5 are turned back into the community for the benefit of the
6 community, so that we can enjoy programs like Kids and Creeks.
7 We can enjoy education projects through the Scouts and
8 environmental groups that are attuned to the need to preserve
9 and protect the environment.

10 Policies and programs of the watershed are
11 innovative and of paramount importance. The monitoring program
12 is unique, in that dischargers themselves have already paid into
13 it, an accrued fund of \$3 million so that we are able to monitor
14 the Bay, measure the toxins and the carcinogens that are being
15 deposited on a regular basis, and then develop strategies in
16 accordance with how the levels are increasing or decreasing.

17 The nonsource pollution requires both regulation
18 and education. The development of best management practices
19 often boils down to common sense approaches to practical
20 problems. We work in unison with agricultural industries -- the
21 dairymen, the cattlemen, farmers -- and develop programs and
22 procedures with their assistance for controlling and containing
23 herbicides and pesticide runoff.

24 We've been especially aggressive with the
25 development and construction industry in developing controls for
26 erosion problems that bring inordinate amounts of sediment into
27 the storm drains in particular.

28 We have to face the inevitable question of fill,

1 which is probably the most hated word in the water vocabulary.
2 The way we treat that is, that whenever a request for fill comes
3 before of us, we require a very rigorous analysis of avoidance,
4 minimization and mitigation. And we demand three acres of new
5 wetlands created for every acre that is filled.

6 CHAIRMAN BURTON: On that issue, how do you
7 interrelate with BCDC? That's the Bay Conservation and
8 Development, Save San Francisco Bay, for want of a better word.

9 MS. DE LUCA: They bring their recommendations,
10 and we take them under advisement, but the specific applicants
11 have to come to us for approval. So, the approvals rest with
12 us.

13 CHAIRMAN BURTON: So, the approval of fill is
14 with you, and not with BCDC?

15 MS. DE LUCA: Correct. We're both legislative
16 and adjudicatory.

17 We've heard a great deal over the past year about
18 the development of TMDLs, total maximum daily loads, and what
19 that refers to. We're going to be hearing a great deal about it
20 in the future. What it refers to is the development of an index
21 or a matrix, if you will, that lists the most toxic and
22 carcinogenic of all these pollutants, and will give us a range
23 with which to determine the how the water bodies are impaired,
24 what is impairing them, and what strategies have to be employed
25 to contain those discharges.

26 It's a very sophisticated, high level
27 technological effort, and we have the fire power to meet the
challenge. We're working on a multi-media, multi-strategy basis

1 with the EPA, Cal and federal, to assist us because it's very
2 complex and very challenging.

3 We continue a long term management strategy for
4 dredging and sediment cleanup with reference to the ports, and
5 work in concert, again, with the Army Corps of Engineers and
6 other state agencies in directing materials toward the creation
7 of wetlands.

8 With respect to the groundwater, we have two
9 responsibilities. One is, in some respects, more direct. We
10 bear responsibility with the counties in aggressively cleaning
11 aquifers and addressing the issues of solvent leaching into the
12 aquifers. In Santa Clara Valley alone, we have, since program's
13 inception, cleaned 500,000 pounds of toxic pollutants from the
14 aquifers.

15 The groundwater issues also take us into the area
16 of leaking fuel tanks. As you know, the tanks were double lined
17 as of March of '99. I'm happy to report that of the 8,000
18 existing, we have either directly or indirectly, through our
19 subordinate agencies, closed 4,000 of the 8,000 leaking tanks,
20 which I think is a significant accomplishment.

21 Now we are faced with the supreme challenge of
22 dealing MTBE, which more than a local problem. It's a state
23 problem; it's a national problem. And we are working tirelessly
24 with the EPA at the state level and at the national level to
25 determine the strategies and the programs that are necessary.
26 It's a highly toxic chemical, highly dispersive, very difficult
27 to contain, and very hard to remove.

28 So, our assignment is to get the job done, and I

1 believe we have the resources to do that.

2 I've up touched very briefly on the programs, the
3 policies, of the Regional Board, and I hope I've communicated to
4 you my commitment to those programs and policies, and my
5 enthusiasm for them. And I would hope to gain your approval for
6 my confirmation so that I can continue with the implementation
7 that I am able to achieve.

8 CHAIRMAN BURTON: Questions, Members of the
9 Committee? Senator Knight.

10 SENATOR KNIGHT: Thank you, Mr. Chairman.

11 I have one comment here. It's from my analysis
12 here.

13 Is it true that you were chosen for this
14 opportunity because of your ability to turn wine into water.

15 [Laughter.]

16 MS. DE LUCA: Nothing could be farther from the
17 truth, Senator.

18 SENATOR KNIGHT: Continuing, California's
19 population is due to grow to about 49 million in the next 25
20 years. That's going to require a lot of water.

21 MS. DE LUCA: Indeed.

22 SENATOR KNIGHT: What, if any, plans do you have
23 to accommodate that increase in population? What
24 recommendations would you put forth?

25 MS. DE LUCA: Well, as you know, we're not Water
26 Resources. We're Water Quality. So, we deal with maintaining
27 the surface waters and ecological balances that are needed to
28 maintain the eco-system.

1 So, Water Resources would have to deal with this
2 problem of generating additional water. Of course, we all know
3 that everything is tied up in the CAL-FED negotiation, and how
4 the diversions will be dispersed.

5 It's, again, a very difficult balancing act to
6 make the judgment of who gets more water, the agriculturalists,
7 the cities, or the environment. I'm glad it's not a problem
8 that, at the moment, I am required to solve.

9 SENATOR KNIGHT: I gather in your management of
10 the water in your area, that probably is a concern. I've got
11 one other question.

12 You indicated that you had, of the 8,000 tanks in
13 the district, 4,000 of them were closed. Does that mean they've
14 stopped leaking? Does that also mean the business that those
15 tanks supported are closed?

16 MS. DE LUCA: Not necessarily; not necessarily.
17 Those tanks could be replaced. They could be removed and
18 replaced by sound tanks.

19 And that's my understanding, that we haven't
20 necessarily closed businesses.

21 SENATOR KNIGHT: If the tanks are leaking and
22 they don't do anything about it, I gather their business is
23 closed?

24 MS. DE LUCA: If the tanks are leaking, and --
25 I'm sorry?

26 SENATOR KNIGHT: And the individuals do not
27 either replace the tanks or do something about it, and they're
28 closed.

1 MS. DE LUCA: Then they have a problem. And we
2 step in, and we close the tanks, yes.

3 SENATOR KNIGHT: And you close the business?

4 MS. DE LUCA: Well, if they're not cooperating,
5 yes. That's part of the enforcement arm.

6 SENATOR KNIGHT: Thank you.

7 CHAIRMAN BURTON: Senator Baca.

8 SENATOR BACA: Josephina, one of the questions
9 that I have is pertaining to MTBE, since 1979 an additive to
10 gasoline. The majority of the MTBE underground is believed to
11 be coming from leaking underground gasoline tanks.

12 Do you know the number of drinking water wells
13 identifies to be affected by MTBE in the San Francisco Bay
14 region?

15 MS. DE LUCA: It's an alarmingly high number. In
16 the 70th and 80th percentage area. It's a significant number.

17 SENATOR BACA: How does the San Francisco Bay
18 Region deal with the leaking of the underground storage tank
19 sites that have been MTBE contamination; do you know?

20 MS. DE LUCA: Can you repeat the question, please?

21 SENATOR BACA: How does the San Francisco Bay
22 Region deal with leaking underground storage tanks, sites that
23 have been identified with MTBE contamination?

24 MS. DE LUCA: The MTBE, well, we actually go in
25 there, and they're pumped out. And we do everything we can to
26 identify the extent of the dispersal of the plumes.

27 That's where we're finding the difficulty in it,
28 because at first blush, it might seem that the effluent has been

1 picked up. We're finding, with more sophisticated studies, that
2 the chemical is more incidious than we had originally thought,
3 and that it is dispersing beyond what was at first suspected.

4 So there has to be a restudy of this whole
5 question of how to contain these plumes.

6 SENATOR BACA: One final question I have is, when
7 we look at water quality and polluted runoffs, such as
8 pesticides used, mining, logging, and a lot of times even in
9 farming areas where the runoff goes on in that area and it
10 affects the water quality, what can be done or needs to be done
11 to work jointly, not only in improving the water quality, but
12 also at the same time, not affecting those individuals that
13 maybe are not really responsible in one sense, but yet, are part
14 of the runoff?

15 Like in my area, there's a dairy, and then when
16 it rains and the runoff flows in there, it affects the quality
17 of water in that area. What can be done, or what coordinated
18 efforts are you doing to work jointly?

19 MS. DE LUCA: Right. I think it's basically an
20 education program and an imposition of fines if they don't
21 accept better management practices that have been devised to
22 improve the situation. Better flushing techniques for dairies,
23 better containment of pesticides and herbicides for various
24 kinds of farming operations.

25 SENATOR BACA: Who gets fined?

26 MS. DE LUCA: Who gets fined is, the farmer gets
27 fined.

28 SENATOR BACA: But if there is a runoff or it's

1 raining at that point, it's nature that has caused the problem.
2 Yet, they're being fined and penalized to some degree.

3 It seems like there should be some kind of a way
4 to also help the farmers as well. Although we're dealing with
5 pesticides --

6 MS. DE LUCA: I think that the acts of God are
7 all factored into the decisions of what penalties to assess.

8 SENATOR BACA: Okay, thank you.

9 CHAIRMAN BURTON: Further questions?

10 Do you have family you'd like to introduce?

11 MS. DE LUCA: I have my distinguished husband
12 here, John De Luca.

13 MR. DE LUCA: I just want to say, water into wine
14 or wine into water, she is so independent you can't believe it.

15 [Laughter]

16 MS. DE LUCA: But I do enjoy a glass with dinner.

17 CHAIRMAN BURTON: Any witnesses in support,
18 please?

19 MR. GUALCO: Mr. Chairman, Members, Jack Gualco
20 on behalf of the California Council for Environmental and
21 Economic Balance.

22 We've had the pleasure of witnessing Ms. De
23 Luca's performance on the Board. We find her to be innovative,
24 thoughtful, and willing to assume the tough challenge of trying
25 to protect the integrity of California's water right law when
26 under pressure from the Federal Clean Water Act. It's a
27 Herculean task, and we've found her to be up to it.

28 We request that you confirm her nomination by the

1 Governor.

2 CHAIRMAN BURTON: Any further in support? Please.

3 MS. PATTON: Chairman Burton and Members of the
4 Committee, I'm Joan Patton. I'm an environmental consultant
5 with the San Francisco Estuary Project. I've been an
6 environmental activist for 25 years, and I've been Conservation
7 Director for the Oceanic Society, a nonprofit.

8 I have worked with many environmental
9 organizations, and as a member of the environmental community, I
10 support the confirmation of Jo De Luca. She is experienced.
11 She has the skills and the environmental perspective and ability
12 to work with the environmental community.

13 And in a highly urbanized region such as the Bay
14 Area, with very complex environmental problems, I think that she
15 brings the skills necessary to protect San Francisco Bay and
16 this very fragile eco-system.

17 SENATOR HUGHES: Move the nomination.

18 CHAIRMAN BURTON: Any opposition? Seeing none,
19 moved by Senator Hughes, call the roll.

20 SECRETARY WEBB: Senator Baca.

21 SENATOR BACA: Aye.

22 SECRETARY WEBB: Baca Aye. Senator Hughes.

23 SENATOR HUGHES: Aye.

24 SECRETARY WEBB: Hughes Aye. Senator Knight.

25 SENATOR KNIGHT: Aye.

26 SECRETARY WEBB: Knight Aye. Senator Burton.

27 CHAIRMAN BURTON: Aye.

28 SECRETARY WEBB: Burton Aye.

1 CHAIRMAN BURTON: Hold the roll open for Senator
2 Lewis.

3 Thank you and congratulations.

4 Francine Diamond. Go ahead, please.

5 MS. DIAMOND: Good morning, Senator Burton,
6 Members of the Committee.

7 It's a great honor to be before you today. I am
8 a native Los Angeleno, born in 1943, having spent most of my
9 summers taking public transportation to the beaches in Santa
10 Monica.

11 At the age of 25, along with my husband and other
12 peoples in the community, we founded No Oil, which was to stop
13 Occidental Oil from drilling along the coast in the Los Angeles
14 coastal area. Twenty years later, we were finally successful
15 after many, many years of hard work, and this was my initiation
16 into the environmental community and to my passion of
17 Commitment to water quality and to environmental quality in
18 California.

19 I worked for the State Controller at the time the
20 State Controller was Gray Davis as the special assistant on
21 environmental issues from 1989 to 1992.

22 I served on the Los Angeles Beach Commission for
23 four years, and have been a member of the California League of
24 Conservation Voters for six years. I serve on the Executive
25 Committee.

26 Last year, I was very honored by State Senator
27 Hilda Solis as one of the Women of the Year in California for my
28 work on environmental justice.

1 I've also been a small business owner for over
2 eight years, and I think I bring to this position the common
3 sense that is necessary for a person in business.

4 My life has demonstrated a passion and commitment
5 to the environment of California, and I believe that there are
6 no problems that can't be solved. By that I mean, everybody
7 needs to come to the table. And I choose to assume that
8 everybody who comes to that table is supporting the issue of
9 water quality.

10 I believe as a public member of this Board -- and
11 I have to say, I was just appointed in April, so I've just
12 attended my third meeting, and I am extremely impressed with the
13 kind of issues that come before us, the kind of commitment and
14 work that the Board and the staff have to bring to this. And it
15 is a tremendous learning curve which I am embarked upon.

16 But I do take this appointment as a sacred trust.
17 As a member of the Los Angeles Regional Water Quality Control
18 Board, my goal is to serve the public, to make sure that the
19 environment and public health are being served.

20 I believe that my job is to enforce the federal
21 and state water laws, and to be sure that the permits that are
22 issued are clear, comprehensive, and consistent. That
23 monitoring is effective, and that enforcements are increased.

24 As a member of the Board for the last few
25 months, I have been happy to see that our enforcement record
26 over the last two years has greatly increased. We do have a new
27 Executive Director who has been there for two years, and that is
28 really one of the reasons.

1 The administrative civil liability actions, or
2 ACLs, have gone up tremendously over the last two years. As a
3 matter of fact, since January of '98, we have fined -- there
4 have been over \$3.2 million collected, or penalties that have
5 been collected for our region.

6 One of the most noted ones was the sewage
7 pipeline spill in the city of Thousand Oaks that resulted in
8 over 86 million gallons of raw sewage being spilled, and closing
9 tens of miles of beaches in the city of Thousand Oaks for an
10 extended period of time. That resulted in a penalty \$2.3
11 million and gave notice to the region that the Water Board was
12 serious about enforcement.

13 I share that priority of enforcement and hope to
14 be, as a new member the Board, to be a part of making sure that
15 those water laws are enforced. And that would be a priority of
16 mine.

17 Another issue that's come before us is the issue
18 of nonpoint source pollution. We're learning that some water
19 quality problems can't be solved without addressing this issue.
20 The point sources, such as publicly owned treatment centers and
21 power plants and refineries, those sources are continuing to
22 be -- we're continuing to reduce the contribution from those
23 point sources. So, the relative contribution from nonpoint
24 sources is increasing.

25 Recently, the Regional Board, actually at our
26 last meeting, issued -- and we're talking about nonpoint sources
27 being municipal storm water. We issued municipal storm water
28 permit two weeks ago to the city of Long Beach, which

1 incorporates a lot of new initiatives that advance the cause of
2 nonpoint source pollution control. This, we hope, will be a
3 model for other cities.

4 Another example of growing water contamination
5 from nonpoint sources is domestic waste water from sewage --
6 from septic tanks. This is an issue in the city of Malibu, for
7 example, that we are dealing with. And we are undergoing with
8 Malibu a technical investigation of water quality, particularly
9 in the Malibu Lagoon, and what contribution septic tanks make to
10 that. And we are finding that there are a lot of septic tanks
11 that Malibu does not even know exist. So, we're on an
12 investigation of identifying all of them and finding out what
13 exactly they contribute to the water quality of Malibu Lagoon.

14 The other issue of MTBE is a big issue in Los
15 Angeles, too. It's a fuel additive that travels very
16 significantly and very quickly from its release point to impact
17 groundwater and surface water. And in the city of Santa Monica,
18 for example, seven wells have had to be closed because of the
19 identification of MTBE.

20 There are other wells that we are finding out
21 that have also been impacted.

22 Already the Regional Board in Los Angeles has had
23 one enforcement action against the release site located near the
24 Arcadia well fill in Santa Monica. And the cleanup of those
25 impacted soils and groundwater are being implemented by the
26 Regional Board along with the city of Santa Monica and the US
27 EPA. And the treatment of water from the drinking aquifer is
28 expected to eventually return the resources of the water wells

1 to the city.

2 But it is a major problem, and there are other
3 areas as well in the San Fernando Valley and in Pomona, where
4 they detected MTBE. We know from evaluation that there are over
5 20 potential sites that are still being considered for
6 additional evaluation and remedial action.

7 The last thing that I wanted to say to you today
8 is that I look forward, if confirmed, to serving on this Board
9 to make sure, again, that our permits are very consistent.

10 I think that's one of the problems with the
11 permits that I've noticed, is that we need more clear and
12 consistent permits, and permits that are comprehensive, and that
13 the enforcements be increased.

14 I hope that some day I will be able to take my
15 two-and-a-half year old granddaughter, Rebecca, to the beaches
16 that I swam in and feel comfortable that she can swim in those
17 waters and not become sick.

18 So, thank you very much for your attention.

19 CHAIRMAN BURTON: Would you like to introduce
20 your family.

21 MS. DIAMOND: I would to.

22 I'd like to introduce my husband, Roger Diamond,
23 and my daughter, Laura Diamond.

24 CHAIRMAN BURTON: Questions, Members of the
25 Committee.

26 SENATOR BACA: Since she's answered all of my
27 questions, I move the nomination.

28 CHAIRMAN BURTON: Senator Knight, since she

1 hasn't answered all his yet.

2 SENATOR KNIGHT: Well, I notice that most of your
3 support comes from environmental groups, who traditionally
4 oppose growth.

5 Given your strong environmentalist background,
6 how can you assure us that you will be fair with developers,
7 property owners, farmers, and industrial water users?

8 MS. DIAMOND: Well, as I mentioned in my opening
9 remarks, I also, in my professional life, have been a small
10 business owner, so I know that it's hard to do business. I've
11 had a lot of issues before, permitting in order to do business.

12 I understand that everybody needs to come to the
13 table. I think I share the philosophy of the Governor, which is
14 that there is no problem that can't be solved. And that is,
15 public policy people and not as advocates -- as I might have
16 been as a member of an environmental organization -- it's my
17 obligation and duty to listen to everybody, and to make sure
18 that everybody feels that they're part of the solution rather
19 than the enemy.

20 I would say that's my basic philosophy.

21 SENATOR KNIGHT: Then along those lines, the
22 Lawrence Livermore Laboratory released a study in '98 that
23 indicated that the environmental impact from leaking underground
24 petroleum tanks was not as bad as claimed by environmental
25 groups in the past.

26 In light of this, would there be any change in
27 your criteria that the Board would use to ensure Los Angeles
28 area tank owners do not suffer undue financial burdens?

1 MS. DIAMOND: I think that we have to look at
2 each case as it comes before us and evaluate.

3 I do believe that my position as a public member
4 on this Regional Water Quality Board is to make sure that the
5 water quality is as good as possible.

6 So, I can commit to look at every case as it
7 comes before me and make appropriate decisions at those times,
8 looking at all of the facts before us, the scientific evidence
9 especially, and not weigh anybody's interest higher than others,
10 but really looking at the quality of the water and the risk to
11 public health.

12 SENATOR KNIGHT: Thank you.

13 CHAIRMAN BURTON: Witnesses in support, please.
14 Witnesses in opposition.

15 Hearing none, on Senator Baca's motion, call the
16 roll.

17 SECRETARY WEBB: Senator Baca.

18 SENATOR BACA: Aye.

19 SECRETARY WEBB: Baca Aye. Senator Hughes.

20 SENATOR HUGHES: Aye.

21 SECRETARY WEBB: Hughes Aye. Senator Knight.

22 SENATOR KNIGHT: Aye.

23 SECRETARY WEBB: Knight Aye. Senator Burton.

24 CHAIRMAN BURTON: Aye.

25 SECRETARY WEBB: Burton Aye.

26 CHAIRMAN BURTON: Thank you and congratulations.

27 MS. DIAMOND: Thank you.

28 CHAIRMAN BURTON: Jack.

1 MR. SMITH: Good morning. I'm Jack Smith.

2 I graduated from Hastings. I'm pleased to be
3 appointed by the Governor to that Board. I would ask your
4 concurrence in that.

5 I graduated from Hastings in 1954 and have been
6 active in helping the school since that time. I really feel
7 that the education that I received at Hastings was a real
8 genuine help to me in my career and in my life, and I've
9 appreciated the fact that Don Perata just got here.

10 SENATOR PERATA: Thank you very much, Mr. Chair
11 and Members. I'm delighted to be here, albeit a few moments
12 late, to present to you Jack Smith.

13 I've known Jack for more years than either one of
14 us would like to recall. He has just been an exemplary citizen,
15 both in his years as an elected official in the City of Hayward,
16 and as someone who has been a very strong supporter, both
17 partisan and nonpartisan, on issues that deal with the
18 well-being of the State of California, particularly in the
19 legacy of infrastructure.

20 And I think it's very appropriate that he would
21 serve on a board governing an institution which will live well
22 beyond any of us here. And it is just another example, his
23 interest in this is just another example of what a remarkable
24 American he is, remarkable resident of this state, and a
25 remarkable human being.

26 So, I give him my highest commendation for your
27 consideration. And of all the appointments that you have and
28 will make, this will be one that will be at the very top.

1 Thank you.

2 CHAIRMAN BURTON: Thank you.

3 We're going to have to trust the Republicans,
4 because he's such a close friend that I might have to recuse
5 myself.

6 SENATOR KNIGHT: That'd be the first time.

7 CHAIRMAN BURTON: That I had a friend?

8 [Laughter.]

9 CHAIRMAN BURTON: Do you want to introduce your
10 family?

11 MR. SMITH: I'd like to introduce my daughter,
12 Cynthia, who is also a graduate of Hastings, and my
13 granddaughter, Alana.

14 CHAIRMAN BURTON: And my daughter who is a
15 graduate of Hastings.

16 I was lucky. I escaped after my first year and
17 took the advice of a federal judge, "Go to USF. You'll have
18 more fun and it's easier."

19 [Laughter.]

20 CHAIRMAN BURTON: And it was both.

21 SENATOR HUGHES: May I ask a question.

22 It's a pleasure to meet you, sir.

23 MR. SMITH: Thank you, Senator.

24 SENATOR HUGHES: I'd like to know how do you feel
25 about supporting the UC Board of Regents differential policy for
26 selected professional schools, including Hastings?

27 Do you think it would be necessary to increase
28 student fees further any time in the future?

1 MR. SMITH: We'd hope not.

2 SENATOR HUGHES: Will you fight to see that that
3 doesn't happen?

4 MR. SMITH: I would do everything I could to keep
5 the student fees down. They're now about -- student fees are
6 about 50 percent of the income to Hastings.

7 The school itself has worked very hard to retain
8 those fees without raising them. But in view of what happened
9 since 1990 with regard to state support, it's been necessary to
10 raise them some.

11 I would hope that we would be able to avoid that
12 in the future.

13 SENATOR HUGHES: What kind of impact do you think
14 that the current fee level has on recruiting and maintaining a
15 diverse and talented pool of students?

16 MR. SMITH: It's very hard to tell.

17 We have at Hastings over 4,000 applications. Of
18 those 4,000 applications, 70 to 80 percent of them are qualified
19 to be accepted as students. They meet the grade requirements.
20 They meet the test scores. You know, they could be students.

21 From that, we take 400. So, it's really
22 difficult to select those that are excluded because of the
23 fees.

24 We do have at Hastings, fortunately, a lot of
25 people who have helped with scholarships, and we're increasing
26 the scholarships all the time. It's amazing how the past -- or
27 the alumni of Hastings have come forward to help fill the gap
28 so that they really do, in each student's case where they can,

1 they give some help.

2 SENATOR HUGHES: Since you've been a graduate of
3 Hastings and have been affiliated with the Board for quite
4 sometime, I'm just curious, what kind of indicators does the
5 Hastings Board look at to gauge the success of their graduates?

6 MR. SMITH: Well, we have -- it's really hard to
7 tell that, too. We find Hastings graduates in most every large,
8 major firm. We find the Hastings graduates -- more Hastings
9 graduates are judges in the state than any other college or
10 university.

11 SENATOR HUGHES: That's interesting. I didn't
12 know that.

13 CHAIRMAN BURTON: More than USF?

14 MR. SMITH: Thus far. They had more fun there.

15 CHAIRMAN BURTON: Maybe San Francisco had the USF
16 lock.

17 MR. SMITH: I would say that could be true.

18 CHAIRMAN BURTON: Especially under Pat Brown.

19 MR. SMITH: That might be truer; although, Pat
20 was very helpful with Hastings, too, Senator.

21 CHAIRMAN BURTON: Senator Baca.

22 SENATOR BACA: I have a son that's going to law
23 school right now, Joe Junior Baca. But he's not going to
24 Hastings.

25 What can be done? Jack, you indicated that about
26 4,000 students apply, and about 400 get in. What can possibly
27 be done in terms of, I guess, diversity of students that get in,
28 or what kind of outreach programs need to be developed, if any,

1 to allow more students to get in, or to reach, as we look at the
2 diversity and the growth of the population in the future as
3 well?

4 It goes along with the questions that Senator
5 Teresa Hughes asked about financial aid, and the increases in
6 that area.

7 Do you have any idea or concept in terms of how
8 you're going to be reaching out in the future as we look at more
9 students?

10 I know my son didn't apply there, but he went to
11 another law school.

12 MR. SMITH: It is interesting. We have the 4,000
13 students apply, but of course those students, in large part,
14 apply to a lot of the universities and schools. So, many of
15 them are accepted.

16 The fact that we have 4,000 applicants and take
17 only 400, the other 3600, many of them find other law schools to
18 go to.

19 At Hastings, we have about a third of the
20 students from minorities. They do very well as students.

21 The only thing that we have been able to do at
22 the school is to encourage the alumni to be involved more in
23 contributing money to help with the scholarships and help with
24 the running of the institution.

25 I don't have a really good answer to your
26 question.

27 SENATOR BACA: One final question.

28 Why is it that so many students are applying to

1 Hastings?

2 MR. SMITH: Well, I think that actually a number
3 of the students feel that the legal education is a good idea,
4 even if they're not going to be lawyers.

5 We do find an increasing number of graduates of
6 law schools who are involved in business, in politics, in other
7 factors as far as government is concerned. And I think that
8 what has happened is, a lot of students have decided that an MBA
9 or law degree is important, and the law degree gets them just as
10 far and sometimes further than the MBA.

11 SENATOR BACA: Do you have any numbers or
12 statistics in terms of the success ratio of individuals who have
13 graduated or passed the Bar the first time around? Is there a
14 number available?

15 MR. SMITH: The only type of numbers we have are
16 those that are able to get jobs after they've graduated from
17 Hastings. The percentage is very high.

18 SENATOR BACA: Thank you.

19 I think the law school my son's going to is about
20 85 percent, or something like that.

21 MR. SMITH: Where does your son go to
22 school?

23 SENATOR BACA: La Verne.

24 CHAIRMAN BURTON: What are the fees now?

25 MR. SMITH: It's about \$10,000.

26 CHAIRMAN BURTON: Ten grand? When I went, it was
27 500.

28 MR. SMITH: I think when I went, John, it was

1 less then that.

2 CHAIRMAN BURTON: No, it was not. USF was 500.
3 It was 60 bucks, because I went the year after Willie, so that
4 was '57. It was \$60 dollars a semester.

5 MR. SMITH: I went in '54, and I was on the GI
6 Bill.

7 CHAIRMAN BURTON: Was it over on Van Ness then?

8 MR. SMITH: It was on Van Ness when I started. I
9 went to Van Ness for two years, then I was called back during
10 the Korean conflict; I lost two years. Then I finished on the
11 new building on McAllister.

12 CHAIRMAN BURTON: This will really be of interest
13 to you, Senator Knight, when we were taking some course at USF,
14 and they were talking about a purpresture, which is some
15 problem. But anyway, they used as an example that over on Van
16 Ness, when the Hastings students took their break, and they were
17 all in the street, and you couldn't walk down the sidewalk, that
18 was a purpresture.

19 SENATOR KNIGHT: What?

20 CHAIRMAN BURTON: It was a crowd.

21 There's one concern that I have had in the past
22 with Hastings, or I think it's probably gone by the boards now,
23 but at one time they were very insensitive to the local
24 neighborhood and community people as they went along, their
25 building programs. And I hope that most of that stuff's behind,
26 but from time to time, if things come up, I'd be in contact and
27 hope you might be able to use your good offices with them.

28 I think they learned their lesson after a couple

1 fights, to bring community in on what they're doing so that, all
2 of a sudden, there's not a big stink.

3 MR. SMITH: I'd be for all that. They did have
4 considerable trouble for a while, but Dean Mary Cane who is here
5 with me today, has really worked very hard to avoid those
6 problems and to get along with the community.

7 It's a strange place for a law school, really.
8 It's in the Tenderloin, and it does require a little extra work
9 on the part of the faculty and the students to integrate
10 themselves into the neighborhood.

11 But they've learned that the students can be
12 helpful in some ways for those folks, and they seem to get along
13 now, John.

14 SENATOR HUGHES: I'd like to disagree with you.
15 I think it's a good location. It means that it's not just for
16 us, but it's for just us.

17 MR. SMITH: I think you're right.

18 SENATOR HUGHES: I really believe that.

19 CHAIRMAN BURTON: Except when it got there, the
20 Tenderloin didn't get down that far. Some refer to it as the
21 Civic Center.

22 SENATOR KNIGHT: Mr. Smith, I've got a couple
23 questions, or one comment really.

24 You went to Hastings under the GI Bill?

25 MR. SMITH: I did.

26 SENATOR KNIGHT: And do you think that was a
27 pretty good system, a voucher system associated with the GI
28 Bill?

1 MR. SMITH: I don't know about that being a
2 voucher system.

3 CHAIRMAN BURTON: He liked the 52.50; I know that.

4 MR. SMITH: I do think the GI Bill was one of the
5 better things that happened to this country.

6 SENATOR KNIGHT: It kind of made schools, too;
7 didn't it?

8 MR. SMITH: It did, and it made it possible for
9 an awful lot of people who would never have attended college to
10 go to college. They were a serious group of people. They
11 worked hard.

12 SENATOR KNIGHT: I understand.

13 One other thing. What do you think about the
14 Mini Bar?

15 MR. SMITH: Pardon me?

16 SENATOR KNIGHT: What do you think about the
17 Mini Bar?

18 CHAIRMAN BURTON: That stuff they have in the
19 hotels.

20 [Laughter.]

21 SENATOR KNIGHT: Whatever. I'm not a lawyer, and
22 I didn't take it. But it's a small Bar.

23 CHAIRMAN BURTON: It's the so-called Baby Bar.

24 SENATOR KNIGHT: Examine that is required of
25 students going to nonaccredited law schools, in their first
26 year.

27 MR. SMITH: I see. I'm not really familiar with
28 that bar.

1 CHAIRMAN BURTON: We haven't heard from that
2 issue in a long time. That's an issue that keeps circulating.
3 And the theory of it is that if you go to an unaccredited law
4 school for some reason, you take this Baby Bar, and then it
5 tells you whether in three years you're going to pass the actual
6 Bar.

7 I always thought it was silly. I think I
8 probably voted to abolish it. I thought it was unfair to those
9 who went to unaccredited schools.

10 Witnesses in support, please.

11 SENATOR HUGHES: I'd like to move the
12 nomination.

13 CHAIRMAN BURTON: Witnesses in opposition.

14 Call the roll.

15 SECRETARY WEBB: Senator Baca.

16 SENATOR BACA: Aye.

17 SECRETARY WEBB: Baca Aye. Senator Hughes.

18 SENATOR HUGHES: Aye.

19 SECRETARY WEBB: Hughes Aye. Senator Knight.

20 SENATOR KNIGHT: Aye.

21 SECRETARY WEBB: Knight Aye. Senator Burton.

22 CHAIRMAN BURTON: Aye.

23 Congratulations, Jack.

24 [Thereupon this portion of the
25 Senate Rules Committee hearing was
26 terminated at approximately 10:31 A.M.]

27 --ooOoo--
28

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2
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9 I further certify that I am not of counsel or
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WEDNESDAY, JULY 14, 1999
11:03 A.M.

1 SENATE RULES COMMITTEE

2 STATE OF CALIFORNIA

3

4

5

6 HEARING

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10 STATE CAPITOL

11 ROOM 113

12 SACRAMENTO, CALIFORNIA

13

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16 WEDNESDAY, JULY 14, 1999

17 11:03 A.M.

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25 Reported by:

26

27 Evelyn J. Mizak

28 Shorthand Reporter

1 APPEARANCES

2 MEMBERS PRESENT

3 SENATOR JOHN BURTON, Chair

4 SENATOR JOHN LEWIS, Vice Chair

5 SENATOR TERESA HUGHES

6 SENATOR WILLIAM KNIGHT

7 MEMBERS ABSENT

8 SENATOR JOE BACA

9 STAFF PRESENT

10 GREG SCHMIDT, Executive Officer

11 NETTIE SABELHAUS, Consultant on Governor's Appointments

12 WADE TEASDALE, Consultant to SENATOR LEWIS

13 FELICE TANENBAUM, Consultant to SENATOR HUGHES

14 CHRIS BURNS, Consultant to SENATOR KNIGHT

15 ALSO PRESENT

17 MIMI H. SILBERT, Ph.D., Member
Board of Corrections

18 ALAN CLARK
19 Chief Probation Officers

20 THOMAS L. SOTO, Member
21 Board of Corrections

22 ANDREA E. TUTTLE, Director
23 Department of Forestry and Fire Protection

24 SENATOR WES CHESBRO

25 TOM GARDNER, President
CDF Firefighters

26 COREY BROWN
27 Trust for Public Land

1 RACHEL DINNO
2 Planning and Conservation League
3
4 MELINDA TERRY
5 California Forestry Association
6
7 KATHIE SCHMIECHEN
8 National Audubon Society
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28 ALLEN AMARO
Disabled Veterans Business Enterprise Network of Northern
California

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1 P-R-O-C-E-D-I-N-G-S

2 --ooOoo--

3 CHAIRMAN BURTON: Governor appointees,
4 Dr. Silbert.

5 Senator Rainey hoped to be here to introduce
6 Dr. Silbert, but he, unfortunately, is in committee across the
7 way.

8 You may proceed.

9 DR. SILBERT: Hi. My name is Mimi Silbert.

10 Needless to say, I am honored to receive this appointment.

11 I served on the Board of Corrections for two
12 terms under Governor Deukmejian. I found it to be not only
13 doing wonderful things for all of the counties, but an
14 incredibly loyal, dedicated staff. And lo and behold, the same
15 staff is there now. I look forward to working with them.

16 A little about myself. Criminal justice is my
17 whole life, to be honest. In the '60s, I got a doctorate in
18 criminology. I taught at UC Berkeley, at San Francisco State.
19 I trained hundreds of police departments, probation departments
20 around the country.

21 And for 25 years, I've developed, run, and lived
22 in an organization called Delancey Street Foundation, which
23 turns around the lives of pretty serious felons. I'd like for a
24 minute, of course, to put a pitch in for Delancey Street, not
25 for money, because we don't take any government money, but just
26 for the concept of hope.

27 We're in an era where, I think, we don't really
28 believe that those kinds of people can change. We've got 13,000

1 graduates. I would love to invite any of you to come visit.
2 We've got a place in Los Angeles and a place in San Francisco.

3 Senator Burton told me -- he is my
4 representative -- he told me two minutes, and I know that when
5 Senator Burton says two minutes, I'd better be quiet.

6 CHAIRMAN BURTON: Give them your savior speech.
7 We've got an hour or two.

8 DR. SILBERT: People can change.
9 So, you know it really -- it's just everything
10 that I care about is criminal justice. I live in the
11 organization. I brought my kids up in it, and I feel that the
12 Board of Corrections is particularly terrific because it lets
13 every county devise what it needs.

14 And I'm happy to answer any questions.
15 CHAIRMAN BURTON: Senator Hughes.
16 SENATOR HUGHES: If there is no opposition, I'd
17 like to move her, because I want her to stay within her
18 limitations.

19 See, he wasn't serious when he said that.
20 But I've been to Delancey Street. It's a
21 wonderful facility.

22 DR. SILBERT: Great. Thank you.
23 SENATOR HUGHES: If you've had any part in it,
24 you're to be congratulated.

25 DR. SILBERT: Thank you.
26 CHAIRMAN BURTON: Senator Lewis.
27 SENATOR LEWIS: Good morning.
28 Did you say that you accomplished all that you do

1 without any government subsidies?

2 DR. SILBERT: Yes. We've never taken any
3 government money.

4 SENATOR LEWIS: How in the world did you do that?

5 DR. SILBERT: We have this radical concept of
6 earning a living by working. So, our residents, we have a
7 moving company. We have a restaurant. We do catering. We
8 teach people marketable skills because they have none. In
9 addition to all their bad attitudes, et cetera, they have no
10 skills.

11 We teach them skills, and at the same time, that
12 money supports them. We earn a living.

13 SENATOR LEWIS: That's a radical, revolutionary
14 concept.

15 DR. SILBERT: Exactly.

16 CHAIRMAN BURTON: Do you have any family you'd
17 like to introduce? Are Frick and Frack here?

18 DR. SILBERT: I didn't bring Frick and Frack.

19 I brought my two children up in Delancey Street.
20 They are now older than I am. I did not bring them. And
21 unfortunately, I failed in bringing them up because they're both
22 attorneys.

23 I do have a resident of Delancey Street. I'd
24 like him to stand, Frank Schweikert. I'd like him to stand
25 because he looks like a nice, all-American boy. And he is one
26 now, but before he came to Delancey Street, he had 18, eighteen,
27 felony convictions.

28 I say that, again, because it's so important to

1 me to press the point that change is possible. So, I'd love to
2 introduce him.

3 CHAIRMAN BURTON: Any speakers in support?

4 MR. CLARK: Good morning, Senator. Alan Clark on
5 behalf of the Chief Probation Officers here to support both Mimi
6 and Mr. Soto to the Board of Corrections.

7 The Board is a very important agency to
8 probation. On behalf of my clients, the Chief Probation
9 Officers, we're happy to endorse both of these candidates and
10 urge your approval of them.

11 CHAIRMAN BURTON: Any opposition?

12 Call the roll, please.

13 MR. SCHMIDT: Senator Hughes.

14 SENATOR HUGHES: Aye.

15 MR. SCHMIDT: Senator Knight. Senator Lewis.

16 SENATOR LEWIS: Aye.

17 MR. SCHMIDT: Senator Burton.

18 CHAIRMAN BURTON: Aye.

19 SENATOR KNIGHT: What are we voting on?

20 CHAIRMAN BURTON: Dr. Silbert.

21 SENATOR KNIGHT: Aye.

22 CHAIRMAN BURTON: Congratulations.

23 DR. SILBERT: Thank you very much, Senator.

24 [Thereupon the Rules Committee
25 acted upon legislative items on
26 the agenda.]

27 CHAIRMAN BURTON: Thomas Soto.

28 MR. SOTO: Good morning, Mr. President and

1 Members.

2 I, too, am very pleased to be here this morning,
3 having recently been asked by the Governor to serve on the Board
4 of Corrections, and look forward to doing so, hopefully after
5 this meeting.

6 My name is Thomas Soto. A little bit about
7 myself. I'm not as familiar with the Board of Corrections as
8 most of my colleagues are who sit on the Board currently, and
9 certainly the staff. But as a public member, I'm looking
10 forward to getting that learning curve behind me and gaining a
11 clear understanding of its function, as well as the way that it
12 can help to improve the quality of life in California overall.
13 I'm certainly looking forward to that.

14 My background is that I'm President of PS
15 Enterprises, which is about a \$4 million a year company that we
16 provide environmental compliance and strategic planning for
17 companies and public agencies with respect to Clean Water Act,
18 Clean Air Act issues, and have been a life-long resident of
19 California.

20 We have offices, by the way, in Oakland and in
21 Santa Monica. We have about 20 to 23 employees that work for me
22 full-time.

23 In addition to that, I'm mostly known throughout
24 the State of California more, perhaps so, as an environmental
25 activist, having been President of the Coalition for Clean Air
26 for a number of years, seated on the Board of the California
27 League of Conservation Voters, and being active with local and
28 other grassroots organizations that help to improve urban

1 qualify of life as well as air quality and environmental
2 policy.

3 But with that, that's basically my introduction,
4 and look forward to your favorable vote on this item.

5 CHAIRMAN BURTON: Questions, Members of the
6 Committee? Senator Lewis.

7 SENATOR LEWIS: I just had one question.

8 The last appointee we had was imminently well
9 qualified in this field. I think you're taking a public slot,
10 but is there anything in your background or educational
11 experience that makes you qualified in this area?

12 MR. SOTO: I think that some of the activities
13 that I've been involved with the L.A. Police Department,
14 perhaps, would be helpful in that respect.

15 SENATOR LEWIS: What kind of activities are
16 those?

17 MR. SOTO: Sitting on the Gay and Lesbian Task
18 Force for the LAPD, which helped to develop a series of policies
19 and initiatives to improve not only relations with the
20 community, but also identifying hate crimes, and being a little
21 bit more discriminate with respect to understanding them for the
22 police force.

23 But I will be the first to admit that I probably
24 have the least amount of knowledge with respect to this item,
25 but feel as though, as a public member, I think that certainly
26 the management skills that I have as a businessman in California
27 will prove a positive contribution to this Board.

28 CHAIRMAN BURTON: Any other questions, Members?

Speakers in support?

CHAIRMAN BURTON: We might put out as one of the great recommendations is, I served in the Assembly with his father 30-something years ago, and now we have his mother in the Assembly, after a wait.

In fact I'll tell you, if you want a little trivia, Bill Campbell's the person who beat his father in 1966 when he lived in Hacienda Heights. He was a moderate Republican.

MR. SOTO: He remains a very good family friend to this day.

SENATOR KNIGHT: With term limits, we're going to lose all of that trivia.

CHAIRMAN BURTON: That's history, Colonel.

MR. CLARK: Thank you, Senator Burton. Again, Alan Clark, Chief Probation Officers here to support Mr. Soto on behalf of the Probation Chiefs here in California.

Thank you.

CHAIRMAN BURTON: Any witnesses in opposition?

Moved by Senator Hughes.

SENATOR LEWIS: I just want to explain my vote.

I was planning on abstaining on this nomination because I had some concerns on some policy matters but also on qualifications.

But Senator Baca's not here, and I'm led to believe that he would vote for the nominee if he were here, so I'm going to cast a courtesy vote.

CHAIRMAN BURTON: Reserving a right on the

1 Floor.

2 SENATOR LEWIS: Absolutely, yes.

3 CHAIRMAN BURTON: Thank you very much, Senator.

4 Call the roll.

5 MR. SCHMIDT: Senator Hughes.

6 SENATOR HUGHES: Aye.

7 MR. SCHMIDT: Senator Lewis.

8 SENATOR LEWIS: Aye.

9 MR. SCHMIDT: Senator Knight. Senator
10 Burton.

11 CHAIRMAN BURTON: Aye.

12 You're recommended to the Floor.

13 I thank Senator Lewis for his courtesy vote for
14 Senator Baca, who did inform me that he would have cast an aye
15 vote.

16 MR. SOTO: Thank you.

17 CHAIRMAN BURTON: Andrea Tuttle.

18 Senator Chesbro.

19 SENATOR CHESBRO: Mr. Chairman and Members, it
20 gives me a great pleasure today to introduce to the Committee
21 someone whom I have known both personally and in her
22 professional capacities for over 25 years. I count Andrea
23 Tuttle and her husband, Don, among my closest and dearest
24 friends.

25 My reason for offering to introduce Andrea to you
26 this morning, however, for confirmation as Director of Forestry
27 is not based simply on our friendship. I am commending her to
28 you as the Senator who represents the Second Senate District,

1 where the fabled timber wars have raised with the greatest
2 intensity, and where the largest number of jobs in the state
3 share a difficult co-existence with endangered fish and birds.

4 One of my predecessors once described the
5 district by saying, "All my constituents love trees. The only
6 problem is that half of them like them standing up, and the
7 other half like them laying down," which, I think, aptly
8 describes the difficulty of the state's most important timber
9 growing region.

10 Andrea has a long list of qualifications based on
11 her public service experience, her research and academic work,
12 and her work on sustainable forest practices both in California
13 and internationally.

14 I'm before you today to introduce Andrea Tuttle
15 because of my unequivocal belief that she is the person who is
16 best qualified to address California's forest practices
17 controversy in a balanced and a thoughtful way. Like many of
18 us, she does not believe that we have to choose between the
19 forest ecology and the forest economy, but rather that a well
20 thought out, scientifically sound regulatory approach can
21 provide both jobs and habitat.

22 Mr. Chairman, it gives me a great deal of
23 pleasure today to introduce one of Governor Davis' best
24 appointments to date, Andrea Tuttle.

25 MS. TUTTLE: Thank you very much, Senator
26 Chesbro, for that very warm and gracious introduction. Yes, Wes
27 and I have shared a very long friendship, both working on the --
28 coming from the North Coast and sharing the challenges that you

1 have that you have in that area.

2 Senator, I'd like to introduce my husband, Don,
3 who is here with me, my companion for over 30 years. He's in
4 the back.

5 And I'd also like to introduce my Chief Deputy,
6 who was appointed with me by Governor Davis, Chief Woody
7 Allshouse, who has a lifetime of service in CDF. He started in
8 his high school years and has been in the Department, wearing
9 many different hats within it, and I want to express my sincere
10 appreciation to him for all that he brings to the organization
11 and the help that he gives me.

12 Also in the audience, I'd like to acknowledge the
13 many people from CDF who are -- these are the people who really
14 make the organization. It is a very strong and capable
15 organization, and I rely on these people. You should be very
16 proud of who you have within CDF.

17 There are three points that I would like to make
18 today regarding CDF as a department because I think they're
19 important to highlight.

20 The first challenge, and certainly one that's not
21 unique to CDF, is something that we're going to be facing
22 throughout state government, and has to do with the demographics
23 of CDF. All of us are getting older, and the Baby Boomers who
24 were hired in the '70s are now getting ready to retire.
25 Depending on the classification, between 50 and 95 percent of
26 CDF's supervisory levels are going to be retiring, or eligible
27 to retire, in the next five years.

28 And this is not just the top management

1 positions. This reaches all the way down into the organization,
2 five or so levels down to the battalion chiefs, who would
3 normally be the group that you would be recruiting from.

4 As my personnel experts call it in the
5 Department, they say, "This is the Y2K of personnel management
6 that not only state government faces, but also private
7 industry." Monday's Wall Street Journal had an article on this
8 very issue.

9 All of us are going to have to approach this with
10 the same sense of purpose that we brought to the computer issue
11 for year 2000.

12 Now, at the moment, CDF has an additional
13 challenge in the form of a salary structure that, frankly,
14 penalizes promotion. At the moment, it's very hard for us to
15 move people up in the organization because they make less.
16 We're working with the appropriate departments to try and work
17 this out so that we can get people promoted who have the
18 experience to deal with the kinds of emergencies that CDF needs
19 to be prepared for.

20 The second issue I'd like to raise has to do with
21 the urbanization of our wild lands. It used to be that CDF was
22 a wild land firefighting organization. Now people are moving
23 into the wild lands. CDF needs the equipment, the training for
24 our firefighters to be able to fight more structural fires and
25 deal with more urban kinds of problems in the wild land.

26 CHAIRMAN BURTON: What's your position on that
27 scooper pooper?

28 MS. TUTTLE: Frankly, Senator, there has been a

1 lot of research on the merits of that particular aircraft. And
2 by and large, it does not meet the needs of CDF.

3 It could fit into the overall fleet, but it's a
4 very expensive plane.

5 CHAIRMAN BURTON: It's made up in Canada?

6 MS. TUTTLE: Yes. CDF uses fire retardant. We
7 don't use as much water. You often don't have lakes in places
8 to scoop water from. Our basic initial attack approach is to
9 use retardant.

10 CHAIRMAN BURTON: Thank you.

11 MS. TUTTLE: So, in all of your counties that
12 this interface exists, it's throughout the whole Sierra front,
13 it's Riverside, it's San Bernardino, it's San Diego, it's the
14 North Coast counties, and California is a tinder box, and we
15 need to persist with all the tools that we have for dealing with
16 the fuel problem.

17 Now, we did have some recent bad experiences with
18 an escaped prescribed burn, but what I would suggest there as
19 the remedy is to fix the way we do our prescriptions, but not
20 throw the tool out. It's a very important tool.

21 The third issue which Senator Chesbro raised has
22 to do, of course, with CDF's responsibilities in timber
23 harvesting. Frankly, I don't think we'll ever have complete
24 truce in timber country, but I think the timber industry has
25 come a long way in recognizing its responsibility to protect
26 wildlife habitat, to protect the endangered salmon.

27 And there are things that CDF needs to do. We're
28 working with the industry, we're working with the environmental

1 community, and there will always be challenges there.

2 Let me conclude here and just acknowledge that
3 CDF is a very large and complex organization. There's many
4 aspects to it. I'm honored to be part of it, and I'm looking
5 forward to working with you on the various problems that we're
6 going to be challenged with.

7 CHAIRMAN BURTON: Senator Lewis.

8 SENATOR LEWIS: With regards to the super
9 scooper, wasn't that used in the Malibu fire number of years
10 ago?

11 MS. TUTTLE: I believe it has been used by L.A.
12 County.

13 SENATOR LEWIS: Do you recall the success or lack
14 thereof in fighting that particular fire?

15 MS. TUTTLE: That particular fire, I'd have to
16 get back to you on that information.

17 CHAIRMAN BURTON: That'd be close to the ocean
18 where you could get the water.

19 MS. TUTTLE: Yeah. It's a question of location
20 and the utility of the aircraft over the wide range of fires
21 that we fight.

22 If -- I think the Department's position has been
23 that we would be happy to add it to the fleet if we could afford
24 it, but frankly, we've been able to get better utility out of
25 the aircraft that we are retrofitting that we've been getting
26 for a fairly low price.

27 SENATOR LEWIS: Just the other question, my
28 understanding is that in the last 20 years, forest growth has

1 exceeded forest harvests on an annual basis for the last 20
2 years.

3 Given that fact, do you think we need any further
4 restrictions on the timber industry in California?

5 MS. TUTTLE: There's a lot of aspects to timber
6 management and good silviculture.

7 One of the issues where you see most of the
8 debate now has to do with wildlife habitat and salmon
9 protection. So, the debate now is centering around the sizes of
10 buffer strips, riparian zones along streams, and that's where
11 the salmon have been impacted because of sediment runoff.

12 As far as growth, yes. We have a lot of trees in
13 the ground. The question then becomes the age structure of the
14 trees, and what kinds of habitat they're providing for species
15 that are dependent on older stands.

16 I'm not worried about California running out of
17 timber. The timber industry has done a tremendous job at
18 restocking their lands.

19 We have an age gap where we're waiting for some
20 of those trees to get old enough so that we get a diversity of
21 habitat types through the forest.

22 SENATOR LEWIS: So, the answer is?

23 MS. TUTTLE: The answer is that if you're just
24 looking at numbers of are trees, we're in good shape. The
25 question is their age and their distribution, and the techniques
26 that we use for keeping sediment out of the streams as we
27 harvest them.

28 CHAIRMAN BURTON: Senator Knight.

1 SENATOR KNIGHT: You had talked about the
2 aircraft.

3 Have you looked at any other aircraft that have
4 been proposed by various entrepreneurs?

5 MS. TUTTLE: CDF, during the budget hearings for
6 many years now, CDF has often been approached with suggestions
7 for other aircraft. And we have provided -- I've looked at the
8 reports. Of course, I wasn't involved with preparing them, but
9 I have looked at some of the analyses that were done on the
10 utility of a whole number of alternatives.

11 And I'm certainly able to get you the results of
12 those analyses, because, of course, we look at alternatives.
13 The primary issue is the way that CDF fights fires, our approach
14 in using retardant, and the ability of aircraft to reach the
15 area as quickly that we need to reach the distances they need to
16 travel. There's a number -- their take-off distances, there's a
17 large number of factors.

18 Frankly, it comes down to a legislative
19 appropriation. And for now, CDF and the Legislature have
20 committed to the current retrofit program that we have with the
21 S2Ts.

22 I hope you get a chance to see them in action.

23 SENATOR KNIGHT: I would like to see a proposal,
24 and see if you had a proposal on an A-10.

25 MS. TUTTLE: I'd be happy to. I have my folks
26 right here, and they're taking notes. They'll be happy to get
27 that to you.

28 CHAIRMAN BURTON: Senator Hughes.

1 SENATOR HUGHES: Two quick questions. Thank you
2 for your continuing interest in fire protection.

3 I want to ask you, what does your Department do
4 for outreach? Specifically, what are you doing now, since
5 you're going to have to hire all this new personnel? Describe
6 the outreach program.

7 And in your functioning, how often and to what
8 extent do you use the CCC?

9 MS. TUTTLE: You and I share an interest in this,
10 Senator. Almost the first day, when I walked in the door, I
11 asked my personnel people to put together a profile for me of
12 who are people in CDF, and what is our distribution with
13 ethnicity and, of course, gender as well for me.

14 And as with many state agencies, CDF does fairly
15 well but we can always do better. We meet our parity levels in
16 many groups but, we don't meet it in others.

17 Frankly, part of it has to do so with who wants
18 to join the fire service, who looks to this as a job.

19 But on the other hand, this is a terrific job.
20 We hire mostly at the entry level. The people that we have
21 applying are very qualified.

22 We do look to the CCCs. They're the kind of
23 people that have had experience now in team work, in working
24 together. They've had some discipline. They've learned how to
25 use tools. And these are the kinds of skills that we need. We
26 do a lot of seasonal firefighter hiring, and so we do have
27 strong recruiting programs, outreach programs, into the
28 schools.

1 What we need to do, I think, is to make sure that
2 we're reaching out into a diversity of neighborhoods and
3 locations for our recruiting.

4 We are -- our personnel people are very sensitive
5 to that, and they're doing their best.

6 SENATOR HUGHES: But you have a tremendous number
7 of experienced people who are going to be retiring. I'm sure
8 that worries you; it worries us.

9 And what are you going to do, because you're not
10 saying to them, "Well, if you had experience, we'll promote
11 you."

12 Or, do you have some people that you're going to
13 promote into those spots, too, and then how are you going to
14 replace them?

15 MS. TUTTLE: Traditionally, CDF has been an
16 organization that hires at the entry level and brings people up
17 through the fire ranks. And so, we do have a core now of people
18 up to the Fire Captain level who are getting, particularly now
19 that we're into fire season, they're getting lots of experience
20 right now as we speak. We have fires going all over the state,
21 particularly with this hot weather. These folks are out there
22 in hot gear, and we are relying, you and I and the state, are
23 relying on these people for their initial attack capabilities.

24 So yes, as a dynamic, I see us with this Y2K
25 issue being required to reach out very far to get the people
26 into the organization, and then promote those we have now and
27 get them up into these decision-making positions, who are making
28 decisions about life and property, and the high risks of

1 emergencies.

2 We need mature decision-makers. We need people
3 who have been out there on the line.

4 So, I'll be happy to talk with you more about
5 this, because it's an issue that I'm certainly concerned about
6 as well.

7 SENATOR HUGHES: You don't need to talk to me
8 about it. Just do the job that you know you have to do. And it
9 sounds like you know what you're doing. I can't advise you on
10 it, but I'm very excited about your experience in the area of
11 interest.

12 And realizing that your agency's going to lose so
13 many people, it's very important that you do elevate some of
14 these people who have been around for quite sometime.

15 Thank you very much.

16 CHAIRMAN BURTON: Have you issued your regs yet?
17 The Department of Forestry, aren't they coming up with some
18 regulations?

19 MS. TUTTLE: The Board of Forestry?

20 CHAIRMAN BURTON: I guess the Board. You have
21 nothing to do with them?

22 MS. TUTTLE: Yes. We administer the forest
23 practice rules. I'm sorry; I just misunderstood you.

24 A rule package was just introduced to the Board
25 of Forestry at its last meeting regarding protections for coho
26 salmon.

27 We did not have any -- or the Board, the forest
28 practice rules did not have any codified rules for protecting

1 the endangered salmon, which were listed fairly recently. We've
2 been sued. We're under a lot of pressure to codify the measures
3 that we used to protect coho.

4 A package was introduced to the Board. We just
5 received two new Board appointments yesterday. So, the Board
6 will be ready to take these on.

7 CHAIRMAN BURTON: Who are they?

8 MS. TUTTLE: Supervisor Stan Dixson from Humboldt
9 County, who's been a long -- good member, experienced member of
10 the Board of Supervisors, and Kirk Markwald, who has an, I
11 believe, it's an energy-related consulting firm, but he has had
12 experience with forestry issues.

13 They will fill out the quorum now for the Board
14 so that they can move forward and have hearings on these regs.

15 CHAIRMAN BURTON: Do you have a full board or
16 just a quorum board?

17 MS. TUTTLE: It's a quorum board. I believe
18 there's still two vacancies.

19 CHAIRMAN BURTON: Out of how many, five?

20 MS. TUTTLE: Nine.

21 CHAIRMAN BURTON: So, you have seven?

22 MS. TUTTLE: Yes.

23 CHAIRMAN BURTON: How many of those are
24 holdovers? Are they pleasure or term appointments?

25 MS. TUTTLE: They are term appointments.

26 We will be having -- I don't know, it's either
27 two or three expiring in January.

28 CHAIRMAN BURTON: If you don't do these regs,

1 what happens to them?

2 MS. TUTTLE: The Board of Forestry has a
3 statutory limit on the number of times they can adopt rules,
4 which is limited to once per year. So, if the Board doesn't
5 meet essentially an October deadline of this year to adopt
6 rules, they won't go into effect by January, which means we're
7 into the next January.

8 CHAIRMAN BURTON: So, what happens?

9 MS. TUTTLE: I predict we'll be in court. I
10 predict that some of the federal agencies will impose on us
11 their own version of regulations.

12 CHAIRMAN BURTON: Thanks.

13 MS. TUTTLE: And I think it's to our benefit
14 to --

15 CHAIRMAN BURTON: Witnesses in support, briefly.

16 MR. GARDNER: Yes, Chair and Members of the
17 Committee, very briefly. Tom Gardner, President of CDF
18 Firefighters, representing 4500 members statewide.

19 We strongly support the confirmation of Andrea as
20 Director of CDF.

21 CHAIRMAN BURTON: Thank you.

22 MR. BROWN: Mr. Chairman, Corey Brown, Trust for
23 Public Land.

24 Very strong support. Andrea will make an
25 excellent Director.

26 CHAIRMAN BURTON: Thank you.

27 MS. DINNO: Good morning. Rachel Dinno with the
28 Planning and Conservation League in very strong support of the

1 confirmation of Ms. Tuttle.

2 MS. TERRY: Melinda Terry, California Forestry
3 Association.

4 We support also. We think Andrea has a great
5 understanding of the complexity of the issues and support of the
6 continuation as well.

7 Thank you.

8 MS. SCHMIECHEN: Kathie Schmiechen from the
9 National Audubon Society.

10 Ms. Tuttle has had a long-standing relationship
11 with Audubon, and we urge your support.

12 MR. AMARO: Good morning, Senator Burton and
13 Members. My name is Allen Amaro. I'm with the DVBE Network of
14 Sacramento. I'm also a disabled veteran.

15 We are here in support. And we'd also like to
16 just briefly state that we have some concerns, even though we
17 Do support this nomination, or this confirmation, excuse me,
18 with CDF's history and background as it pertains to the DVBE
19 program, which is the Disabled Veterans Business Enterprise
20 Program.

21 I was able yesterday to confirm with Senator
22 Hughes' office, Senator Baca's office, and Senator Knight's
23 office that we had these measures of concern, and we just
24 wanted, for the record, to make sure that the Committee knew,
25 because in the past, CDF has had some history of compliance
problems as far as the Public Contract Code is concerned for
reports on their outreach and their goal program for disabled
veterans.

1 So, we're here today to put on the record our
2 concern that this program is carried out as complied in the law.
3 CDF's history of making these reports to the Legislature has
4 been haphazard at best. For last three years, they had no
5 report, which was part of the Public Contract Code requirement.

6 We've had some dialogue with the new
7 administration, primarily with Chief Allshouse, and we are
8 beginning to break ground and have some dialogue.

9 We are here to make sure that we don't go
10 backwards in this respect, and that we meet further and continue
11 to make the program for disabled veterans in the State of
12 California work.

13 Any questions?

14 CHAIRMAN BURTON: Where did you get the Flying
15 Tiger jacket?

16 MR. AMARO: This is Flying Tiger jacket is a
17 replica jacket. My wife bought this for me on our 25th
18 anniversary.

19 CHAIRMAN BURTON: Who besides Colonel Knight and
20 I would have known that? I don't even know if you're old enough
21 to know the Flying Tigers.

22 SENATOR KNIGHT: Oh, yes.

23 CHAIRMAN BURTON: A very close personal friend of
24 Claire Chennault, this guy right here.

25 MR. AMARO: And it does have, in the inside of
26 it, Claire Chennault's signature. My wife -- I think that's why
27 we have a second mortgage on our house.

28 Anyway, it's an official jacket, and I wear it

1 with respect to Colonel Chennault. Thank you.

2 Any questions?

3 CHAIRMAN BURTON: He just said it was a great
4 John Wayne movie.

5 SENATOR HUGHES: I'd like to move the nomination.

6 CHAIRMAN BURTON: Any opposition?

7 Moved, call the roll.

8 MR. SCHMIDT: Senator Hughes.

9 SENATOR HUGHES: Aye.

10 MR. SCHMIDT: Senator Lewis.

11 SENATOR LEWIS: Aye.

12 MR. SCHMIDT: Senator Knight.

13 SENATOR KNIGHT: Aye.

14 MR. SCHMIDT: Senator Burton.

15 CHAIRMAN BURTON: Aye.

16 MS. TUTTLE: Thank you very much.

17 [Thereupon this portion of the
18 Senate Rules Committee hearing was
19 terminated at approximately 11:40 A.M.]

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1 CERTIFICATE OF SHORTHAND REPORTER

2
3 I, EVELYN J. MIZAK, a Shorthand Reporter of the State
4 of California, do hereby certify:

5 That I am a disinterested person herein; that the
6 foregoing transcript of the Senate Rules Committee hearing was
7 reported verbatim in shorthand by me, Evelyn J. Mizak, and
8 thereafter transcribed into typewriting.

9 I further certify that I am not of counsel or
10 attorney for any of the parties to said hearing, nor in any way
11 interested in the outcome of said hearing.

12 IN WITNESS WHEREOF, I have hereunto set my hand this
13 15th day of July, 1999.

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18 EVELYN J. MIZAK
19 Shorthand Reporter
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27 Evelyn J. Mizak

28 Shorthand Reporter

1 APPEARANCES

2 MEMBERS PRESENT

3 SENATOR JOHN BURTON, Chair

4 SENATOR JOHN LEWIS, Vice Chair

5 SENATOR JOE BACA

6 SENATOR TERESA HUGHES

7 SENATOR WILLIAM KNIGHT

8 STAFF PRESENT

9 GREG SCHMIDT, Executive Officer

10 PAT WEBB, Committee Secretary

11 NETTIE SABELHAUS, Consultant on Governor's Appointments

12 WADE TEASDALE, Consultant to SENATOR LEWIS

13 FELICE TANENBAUM, Consultant to SENATOR HUGHES

14 CHRIS BURNS, Consultant to SENATOR KNIGHT

15 MANNY HERNANDEZ, Consultant to SENATOR BACA

17 ALSO PRESENT

18 GENEVIEVE A. SHIROMA, Member
19 Agricultural Labor Relations Board

20 SENATOR DEBORAH ORTIZ

21 GLORIA A. BARRIOS, Member
22 Agricultural Labor Relations Board

23 SENATOR RICHARD POLANCO

24 HERBERT "BERT" O. MASON, Member
25 Agricultural Labor Relations Board

26 PAUL E. HELLIKER, Director
27 Pesticide Regulation
California Protection Agency

28 PETE PRICE
California League of Conservation Voters

1 BILL PAULI
2 California Farm Bureau

3 AARON READ
4 California Association of Professional Scientists

5 WESLEY CARR, Treasurer
6 California Association of Professional Scientists

7 ASSEMBLY MIKE MACHADO

8 KENDRA DAIJOGO
9 California Association of Winegrape Growers
10 California Agricultural Production Consultants Association

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4 CHAIRMAN BURTON: Governor's appointees,
5 Genevieve Shiroma, Chair of the Ag.

6 MS. SHIROMA: Good morning. Shall I begin?

7 CHAIRMAN BURTON: Yes, please.

8 MS. SHIROMA: Thank you.

9 Thank you, Chairman Burton and Members of the
10 Rules Committee. I'm honored to be before you today. I am
11 respectfully seeking your affirmation of my appointment by the
12 Governor on the Agricultural Labor Relations Board.

13 I appreciate the opportunity to work on a very
14 important law governing labor relations between growers and
15 farmworkers. I take very seriously what the statute says. In
16 enacting this legislation, the people of California seek to
17 ensure peace in the agricultural fields by guaranteeing justice
18 for agricultural workers and stability in labor relations.

19 As the Chair of the Board, I look forward to
20 working with all of the stakeholders to achieve this goal. I
21 believe it can be accomplished through fair, consistent, and
22 timely decisions by the Board. I firmly embrace my
23 responsibilities as a judge and administrator under the Act to
make those decisions.

24 In my career of over 20 years as an engineer and
25 branch chief at the Air Board, I developed a keen knowledge of
26 government, how to make it work and work efficiently, fairly,
27 and with accountability. At the Air Resources Board where I
28 spent, again, 20 years, I had the opportunity to work on many

1 programs and many stakeholders, including the agricultural
2 community. This is reflected in my support letters.

3 My goals are simple. As the Chair of the Board,
4 establish a pattern of fair, consistent, and timely decisions,
5 hear from all interested parties, including the Legislature, to
6 gain insights and understand all viewpoints, assure that
7 employers and farmworkers are able to get information on the
8 requirements of the Act, and work with my colleagues, the
9 General Counsel, and the staff to provide for an efficient and
10 credible program.

11 As the daughter of a farmworker, I bring my life
12 experience to the Board. With over 20 years at the Air
13 Resources Board, I bring my career experience and a track record
14 for working inclusively, intelligently, fairly.

15 I would be honored to have your affirmation of my
16 appointment to the Board. I look forward to working with you,
17 and would be happy to answer any questions you may have.

18 Thank you.

19 CHAIRMAN BURTON: Questions, Members of the
20 Committee, Senator Knight.

21 SENATOR KNIGHT: Yes, thank you, Mr. Chairman.

22 Ms. Shiroma, it appears as though there's an
23 extremely light workload concerning the Board. Is the workload,
24 does that justify the kind of Board that we're talking about?

25 MR. SHIROMA: Yes, sir, I believe it is. I can't
26 speak for prior Boards.

27 The Act is structured as such that the Board
28 reacts to the constituents and to the General Counsel's efforts.

1 I can say that in the 90 days that I have been
2 Chair, we have had three elections. The Board has deliberated
3 on seven orders, and issued seven orders, and we have provided
4 for three decisions.

5 There are also over 200 charges which the General
6 Counsel is assessing.

7 So, there is a workload there. We have been
8 busy, meeting every week.

9 SENATOR KNIGHT: Some might suggest that it's of
10 such a nature that we could transfer it to the Public Employment
11 Relations Board, thereby doing away with one board within the
12 state.

13 MS. SHIROMA: Ultimately it's you, the
14 Legislature, that makes that call.

15 However, the Public Employee Relations Board and
16 the Agricultural Labor Relations Board provide two separate
17 functions. It's public sector versus private sector.

18 The Agricultural Labor Relations Act does deal
19 with the seasonality of agriculture, the seasonality of workers,
20 the fact that produce is vulnerable, perishable. These sorts of
21 things are specifically provided for in the Act.

22 SENATOR KNIGHT: Thank you.

23 CHAIRMAN BURTON: Senator Baca.

24 SENATOR BACA: One quick question, just as a
25 follow-up.

26 My understanding is that apparently there is a
27 lot of vacant positions that are currently right now, and that's
28 part of the reason why a lot of the caseloads are not there.

1 Are you aware that there are a lot of
2 vacancies currently occurring right now on the regional
3 basis for positions?

4 MS. SHIROMA: Yeah. As part of my administrative
5 hat, I've been meeting with the regions and assessing the
6 staffing, the workload, and I'm still in that process of that.

7 Yes, there are some vacancies. I'm working with
8 the General Counsel towards filling those, and also assessing
9 overall the work needs, how we're delivering the program.

10 In terms of the overall agency, it is a small
11 one. There is a portion where there are some vacancies.

12 SENATOR BACA: Thank you.

13 CHAIRMAN BURTON: Witnesses in support.

14 Senator Ortiz.

15 SENATOR ORTIZ: Thank you, Mr. Chairman and
16 Members, I will be brief.

17 I'm here simply to highly recommend the
18 confirmation of Genevieve Shiroma. I have known her over a
19 long period of time to be the kind of leader that
20 demonstrates the ability to balance the very important
21 interests of a very significant industry in our state, as
22 well as the interests of workers within the ag. industry.

23 She's an engineer by training. She brings that
24 often detached and objective perspective that we so admire from
25 those of us in the political policy end of this business, and
26 the fact that she also brings a personal commitment as the
27 daughter of a farmworker, I think, is significant.

28 I strongly recommend and request that you confirm

1 Ms. Shiroma, and I think that we will all be proud of her.

2 SENATOR BACA: Move the nomination,

3 Mr. Chairman.

4 CHAIRMAN BURTON: Other witnesses in support?

5 The record will reflect that the Ag. Council of
6 California, the Farm Bureau Federation, and the Ventura County
7 Ag. Association, as well as those representing the workers, are
8 in support.

9 Anyone in opposition?

10 Do you have any family you want to introduce that
11 are present?

12 MS. SHIROMA: Yes, my sister is here today, Amy
13 Shiroma.

14 CHAIRMAN BURTON: Moved by Senator Baca, call the
15 roll.

16 SECRETARY WEBB: Senator Baca.

17 SENATOR BACA: Aye.

18 SECRETARY WEBB: Baca Aye. Senator Knight.

19 SENATOR KNIGHT: Aye.

20 SECRETARY WEBB: Knight Aye. Senator Burton.

21 CHAIRMAN BURTON: Aye.

22 SECRETARY WEBB: Burton Aye.

23 CHAIRMAN BURTON: Congratulations. We'll keep
24 the roll open.

25 MS. SHIROMA: Thank you so much.

26 [Thereafter, SENATORS LEWIS and

27 HUGHES added their Aye votes,

28 making the final vote 5-0 for

1 confirmation.]

2 CHAIRMAN BURTON: Gloria Barrios, Member, Ag.

3 MS. BARRIOS: Good morning. May I begin?

4 Senator Burton, Members of the Committee, I come
5 here today to seek your confirmation to be Member of the
6 Agricultural Labor Relations Board.

7 In 1980, I began my legal career in the Imperial
8 Valley working for the Board. I believed then as I believe now
9 that the Act is the best vehicle to bring certainty and a sense
10 of fair play to labor relations between farmworkers and growers.

11 In the few short months since Governor Davis has
12 appointed me to the Board, I have met with various
13 representatives of the growers, unions, and farmworkers alike in
14 order to bring everyone to the table.

15 I have been active in the administration of the
16 Board's business, and have also participated in the decisions
17 and orders of the Board.

18 I take my job as an administrator and as a judge
19 very seriously. I believe that only the fair and timely
20 application of law will ensure that the Board is viewed as a
21 credible and respected agency.

22 I intend to continue as I have throughout my
23 legal career, not only with the ALRB, but with the Department of
24 Fair Employment and Housing, and the Office of the Attorney
25 General, to view each case on its own merits, review the facts,
26 and follow the relevant case law. I intend to be a working
27 Board Member who will keep the lines of communication open both
28 to members of the public and Members of the Legislature.

1 I am proud to have been appointed by the Governor
2 for this position. And I thank Members of this Committee for an
3 opportunity to address you this morning.

4 CHAIRMAN BURTON: Senator Knight.

5 SENATOR KNIGHT: No questions.

6 CHAIRMAN BURTON: Senator Baca.

7 SENATOR BACA: I'll ask the same question of the
8 three of you.

9 Apparently there seems to be vacant positions at
10 the regional offices. Are you aware of the situation, and what
11 steps are being taken to correct those steps in filling those
12 positions?

13 MS. BARRIOS: There are vacant positions at the
14 regional office, and there are also vacant positions at the
15 Board level.

16 We're assessing our needs. For example, we know
17 that there's a backlog of compliance cases, and we will need
18 people to take care of those cases.

19 So, I can see that we will possibly hire in the
20 near future, and I also could see that we might set up an
21 additional office because right now, the El Centro office
22 services all the way to Santa Maria. So, it's possible that a
23 satellite office could be put in Santa Maria or in Oxnard. And
24 we would need people to man those offices.

25 SENATOR BACA: Thank you.

26 CHAIRMAN BURTON: Witnesses in support, Senator
27 Polanco.

28 SENATOR POLANCO: Good morning, Mr. Chairman,

1 Members.

2 I'm here to recommend the confirmation of Gloria
3 Barrios, as she brings a tremendous amount of experience, having
4 been a teacher in her past experience, teaching farmworker
5 children out of Oxnard, having been an attorney dealing in the
6 area of labor law and the difficulties in that subject area,
7 having distinguished herself as an attorney, arguing cases
8 before the Department of Fair Employment and Housing. And also,
9 nine years with the Office of the Attorney General certainly
10 brings the type of experience, and sensitivity and caring to
11 this very, very important position.

12 I'm here to ask your favorable consideration to
13 an outstanding candidate, Mr. Chairman.

14 CHAIRMAN BURTON: Thank you, Senator.

15 Other witnesses in support?

16 SENATOR BACA: Move the nomination.

17 CHAIRMAN BURTON: The record will reflect again
18 the Ag. Council, and the Farm Bureau Federations, as well as the
19 organizations representing workers.

20 Do you have any family here you want to
21 introduce?

22 MS. BARRIOS: No, I don't, Senator.

23 CHAIRMAN BURTON: Moved by Senator Baca. Call
24 the roll.

25 SECRETARY WEBB: Senator Baca.

26 SENATOR BACA: Aye.

27 SECRETARY WEBB: Baca Aye. Senator Knight.

28 SENATOR KNIGHT: Aye.

1 SECRETARY WEBB: Knight Aye. Senator Burton.

2 CHAIRMAN BURTON: Aye.

3 SECRETARY WEBB: Burton Aye.

4 [Thereafter, SENATORS LEWIS and

5 HUGHES added their Aye votes,

6 making the final vote 5-0 for

7 confirmation.]

8 CHAIRMAN BURTON: Leave the roll open.

9 Congratulations to you.

10 MS. BARRIOS: Thank you.

11 CHAIRMAN BURTON: Bert Mason, Member of the Ag.

12 Labor Relations Board.

13 MR. MASON: I would like to thank Chairman Burton
14 and his distinguished colleagues on the Rules Committee for
15 considering my confirmation as a Member of the Agricultural
16 Labor Relations Board.

17 As you are well aware, agriculture was excluded
18 from the National Labor Relations Act in 1935. It is my view
19 that the ALRB fills an important void for workers and employers
20 in California's vast agricultural industry.

21 I've spent a major part of my professional career
22 dealing with agricultural labor matters. I have taught,
23 conducted research, and provided educational programs for the
24 agricultural community in these areas.

25 Throughout these activities, a major theme has
26 been trying to convince those involved that people are the most
27 important resource in any organization.

28 I believe I bring a unique background to the

1 Board. I'm very familiar with agricultural labor issues, and I
2 also understand the business of agriculture. I have worked with
3 all sides on these often contentious issues, and I believe I
4 bring a reputation of objectivity and fairness to the Board.

5 With my Board colleagues and the agency's staff,
6 I would like help leave a legacy of the Board as an objective
7 and efficient organization that interprets the law in a fair and
8 timely manner.

9 Throughout my career, I have always tried to
10 maintain high professional standards, and thereby enhance the
11 reputation of the organization that I have represented. I
12 believe the continued pursuit of professionalism will result in
13 all parties respecting our actions, although by definition all
14 parties will not agree with our decisions.

15 During the short period that we have been on the
16 Board, my colleagues and I have developed a productive working
17 relationship. We're all committed to the principles of the Act,
18 and we're fully engaged in the operations of the agency.

19 As an example of this participation, we have
20 traveled to our El Centro and Visalia offices to meet with the
21 regional staff and constituent groups, and we plan to visit our
22 Salinas office next month.

23 I'm honored to have been appointed to the Board
24 by Governor Davis, and I hope that you will concur in this
25 confirmation process.

26 Again, I appreciate your time, and I look forward
27 to working with the Legislature in the future.

28 CHAIRMAN BURTON: Witnesses in support?

1 All right, the record will reflect Senator Costa,
2 Assemblyman Machado, the Farm Bureau, the Grape and Tree Fruit
3 League, and Cal. State University at Fresno.

4 Do you have any family here you want to
5 introduce?

6 MR. MASON: No.

7 CHAIRMAN BURTON: Moved by Senator Baca. Call
8 the roll.

9 SECRETARY WEBB: Senator Baca.

10 SENATOR BACA: Aye.

11 SECRETARY WEBB: Baca Aye. Senator Knight.

12 SENATOR KNIGHT: Aye.

13 SECRETARY WEBB: Knight Aye. Senator Burton.

14 CHAIRMAN BURTON: Aye.

15 SECRETARY WEBB: Burton Aye.

16 [Thereafter, SENATORS LEWIS and
17 HUGHES added their Aye votes,
18 making the final vote 5-0 for
19 confirmation.]

20 CHAIRMAN BURTON: The roll will be held open.
21 Congratulations.

22 MR. MASON: Thank you.

23 CHAIRMAN BURTON: As a matter of idle curiosity,
24 what's going on in the Watsonville Berry deal?

25 We wanted to get the confirmation out of the way
26 before hand.

27 [Laughter.]

28 CHAIRMAN BURTON: Where is it at? I haven't seen

1 anything lately in the paper.

2 MS. SHIROMA: A final tally was made yesterday.
3 There are over 200 election objections that our Executive
4 Secretary is processing. He'll be done within 30 to 45 days,
5 and then the matter will come back before the Board.

6 CHAIRMAN BURTON: The votes have been tallied and
7 200 set aside. Nothing's happened yet?

8 MS. SHIROMA: We have a tally which shows that
9 the Comute has the larger number of votes over the United
10 Farmworkers, but there are -- due process provides that we look
11 at the election objections, of which there are over 200, so we
12 have not made a certification at this point, not until we get
13 through those election objections.

14 SENATOR BACA: Sounds like a fair objective.

15 CHAIRMAN BURTON: Thank you.

16 Paul Helliker, Director of Pesticide Regulation.

17 MR. HELLIKER: Good morning, Mr. Chair and
18 Members of the Committee. I appreciate the opportunity to
19 come before you this morning to seek your confirmation as
20 Director of Pesticide Regulation in the California
21 Environmental Protection Agency.

22 I bring to this position over 15 years of
23 experience in the environmental field, working on water
24 pollution, air pollution, international trade, business
25 development, at a variety of different levels from the federal
26 to the local level. In fact, I think it's this experience that
27 was the reason that Secretary Hickox recommended me and the
28 Governor appointed me.

1 I subscribe fully to the Governor's philosophy
2 that we need a balanced approach to environmental issues, one
3 that's based on sound science and diligence in carrying out our
4 laws and regulations. I believe a clean environment and a
5 healthy environment is good not only for Californians, but also
6 for the state's businesses.

7 I've given you a summary of the goals that I'd
8 like to pursue with our Department in the short and long term,
9 but let me just highlight a couple this morning.

10 I believe most importantly that government
11 agencies should be honest, open, and accountable. To that end,
12 I take the performance measures that the Legislature has
13 established, and take those seriously. In fact, I would like to
14 extend them to all of our operations so that we can report to
15 you and all of our constituents on our progress.

16 We also have the toughest pesticide laws in the
17 nation. Our goal will be to enforce those laws resolutely and
18 equitably, and to provide a level playing field for California
19 businesses.

20 We will be working to improve our performance in
21 reviewing and registering pesticides in a timely manner,
22 particularly those pesticides that are safer alternatives.

23 We need to expand our efforts to provide
24 incentives and support to developers of lower risk pest control
25 techniques so that we can reduce our reliance on the pesticides
26 that pose the greatest environmental and health threats.

27 We face a variety of other challenges, but I'll
28 leave those for future dialogues.

1 In closing, I'd like to reiterate that I'm
2 greatly honored that the Governor has asked me to join his team,
3 with your support, I look forward to working with you and all of
4 our customers for the next three-and-a-half years, and hopefully
5 longer, to carry out our goals.

6 CHAIRMAN BURTON: There have been reports that
7 hazardous pesticide use is on the rise. Is the Department
8 taking a look at that, and do you have any ideas as to how to
9 reduce the use of hazardous ones. And as we continue to
10 increase use, what the environmental, and equally as important
11 if not more, the health consequences of increased use of
12 hazardous pesticides?

13 MR. HELLIKER: That's a significant issue
14 for us, Mr. Chairman, and let me point out a couple of
15 programs that we have that the Legislature has been very
16 helpful in supporting us with. The first is the Pest
17 Management Alliance Program, where we have a million
18 dollars every year to provide grants to organizations to
19 help develop alternatives. And we've had that program in
20 place now for two years, and we're getting ready to issue
21 the next round.

22 We have had some success so far in a variety of
23 difficult crops, and we look forward to expanding those
24 alternatives from those crops to a variety of different
25 other applications in California. So, that's the carrot
26 program.

27 We also have been successful in achieving
28 some additional support for our registration program. As

1 you may know, the backlog is significant, but our target
2 now with the new resources is to focus on those pesticides
3 that are the lower risk pesticides so that we can get those
4 through the system faster and have them available for
5 growers that want to use those lower risk pesticides.

6 I think if you look at the data that we've
7 collected through our Pesticide Use Program, which, by the way,
8 is the only one in the country that is quite as extensive as our
9 reporting system, that there are some trends that we can
10 identify now. There are certain categories of pesticides that
11 are going down that fall into those categories, mainly because
12 of the alternatives that are coming into the market. We hope to
13 see that continue in the future.

14 CHAIRMAN BURTON: How would a pesticide be taken
15 off? How would a pesticide, if it's found to be hazardous, be
16 taken off?

17 MR. HELLIKER: In the 1980s, the Legislature
18 passed the Birth Defects Prevention Act. Through that process,
19 we do a more extensive risk assessment for the pesticides that
20 are the highest priority. There was a list of 200 at that
21 point. We still have about 145 or so pesticides on that list.

22 As we go through the process of looking at what
23 are human health impacts and the environmental impacts, if we
24 find that we can't mitigate them through better worker
25 protection or certain restrictions on pesticides, we will take
26 those products off the market.

27 A recent example is DDBP, which is the pesticide
28 that's used in the No Pest Strips. Because of the risk that

1 that pesticide posed, particularly to children, we've recently
2 announced that that product will be taken off the market.

3 CHAIRMAN BURTON: What are your plans for the
4 additional 800 million that was given the Department in the
5 budget?

6 MR. HELLIKER: The eight hundred thousand? I
7 wish it were 800 million.

8 CHAIRMAN BURTON: Don't we all.

9 MR. HELLIKER: I think you're referring to --
10 that particular item, Mr. Chair, is the funding that was given
11 to augment our registration program, which I've mentioned.

12 We've started to hire those positions. We've
13 reorganized that branch so that we can target those positions to
14 meet the budget control language requirements and expedite the
15 registration of lower risk pesticides.

16 CHAIRMAN BURTON: Question, Senator Lewis.

17 SENATOR LEWIS: You spent the last couple years
18 in the State of Texas?

19 MR. HELLIKER: I sure did.

20 SENATOR LEWIS: Just a question, in Texas,
21 they've got a problem, as many southern states do, with the Red
22 Imported Fire Ant.

23 CHAIRMAN BURTON: It's a thing of no consequence.

24 [Laughter.]

25 MR. HELLIKER: Unless you're on a picnic.

26 SENATOR LEWIS: As you probably know, we've had a
27 very large infestation in Orange County, and now spreading into
28 Riverside, L.A., and San Diego as well.

1 In the State of Texas, there are several
2 pesticides that are used to alleviate the infestation which are
3 not on the list for use in California.

4 What's your thought about that?

5 MR. HELLIKER: My understanding is that we've
6 been working very closely with the Department of Food and
7 Agriculture here, who the Governor has designated as the lead
8 for this particular problem, and that they have a whole range of
9 tools that are used both in Texas as well as here to help combat
10 the problem.

11 Whenever we and the Department of Food and
12 Agriculture identify an additional pesticide that we think would
13 be effective, we work with EPA to expedite that through what's
14 known as the Section 18, which is a temporary exception to the
15 registration process.

16 I believe that all of the pesticides that the
17 Department of Food and Agriculture and we have identified as
18 important to combat this problem have been registered, or gone
19 through that Section 18 process.

20 SENATOR LEWIS: Thank you.

21 CHAIRMAN BURTON: Senator Baca.

22 SENATOR BACA: One quick question.

23 Protecting infants and children, do you have any
24 ideas in terms of what standards the state should adopt to
25 protect infants and children? Do you have any idea, Paul?

26 MR. HELLIKER: Yes, sir.

27 In 1993, the National Academy of Sciences came
28 out with a report that identified the fact that we need to be

1 more concerned about protecting infants and children.

2 Our whole regulatory program looks at risks to
3 the whole range of different populations that are out there.
4 And in fact, we look at infants and children as a specific
5 sub-population. And where we can identify that we need to be
6 protective, we will set our standards accordingly. We've done
7 that for a couple of different pesticides recently.

8 So, I think that we have a good program there.
9 In fact, we're considered to be a model in the nation for
10 protecting infants and children.

11 SENATOR BACA: Thank you.

12 Move the nomination.

13 CHAIRMAN BURTON: Witnesses in support?

14 MR. PRICE: Mr. Chair, Members, Pete Price,
15 representing the California League of Conservation Voters.

16 We're happy to be here today to support Paul
17 Helliker's nomination to be the Director of DPR.

18 We think that this is inherently one of the most
19 difficult jobs in state government, frankly, because at bottom,
20 we're sanctioning the legal application of toxic materials to
21 food, soil, in the water, and in the air. So, it's inherently
22 controversial.

23 We're impressed by Paul's background. He has a
24 great deal of experience, both in government and the private
25 sector on air quality and water quality issues. Comes to
26 pesticides with kind of a clean slate, and frankly, I think a
27 lot of people might think that's maybe the best way to go at
28 this point, someone who has a background in the issues they're

1 dealing with, but comes in without a lot of baggage.

2 I appreciate some of the comments or
3 questions that were asked, because those are some of the
4 issues we are concerned about: children's health; this
5 concern about data showing that some of the most dangerous,
6 cancer-causing pesticides are increasing in use at the
7 highest rate.

8 We and other organizations have had meetings with
9 Mr. Helliker and his team in the last few months, and they've
10 been good meetings. We've been favorably impressed. I think
11 it's going to be an open operation, and that's all we're looking
12 for.

13 So, based on his experience and what's happened
14 to date, we support it and look forward to working with him.

15 Thank you.

16 MR. PAULI: Mr. Chairman, Bill Pauli on behalf
17 of the California Farm Bureau and our members, we'd like to
18 endorse the appointment of Paul Helliker. We've gotten to know
19 him over a period of time, and we actively and strongly support
20 his confirmation.

21 Thank you.

22 MR. READ: Thank you, Mr. Chairman, Members.
23 Aaron Read, and I'm here representing the California Association
24 of Professional Scientists, whom I've represented for 20 years
25 now. And I'm happy to have our statewide Legislative Chairman
26 with us, Mr. Wes Carr, who is an employee of the Department.
27 He'd like to make just a very brief comment.

28 CHAIRMAN BURTON: Just so you know, we knew who

1 he represented.

2 MR. CARR: Okay, great.

3 Good morning, Chairman Burton, Committee Members.

4 It's with real pleasure I'm here to support the
5 confirmation of Director Helliker. As Aaron said, I'm a
6 scientist within the Department, and I also am the Treasurer for
7 the California Association of Professional Scientists.

8 I've had the opportunity to meet with
9 Mr. Helliker and discuss scientific issues. And his paper that
10 he provided to you that outlines some of the goals, short-term
11 and long-term, emphasize best available science, and working
12 using scientific principles to protect the people and the
13 environment of California, which we think is a very important
14 thing, and we're honored to be part of that process.

15 Thank you very much.

16 ASSEMBLYMAN MACHADO: Assemblyman Mike Machado.
17 I want to speak on behalf of the nomination of Paul Helliker.

18 I endorse that. Paul brings an understanding of
19 the industry, both agriculture and otherwise, as well as the
20 need to provide the protection for the consumers and citizens of
21 California. With his background, I think he'll be a great asset
22 to bring a balance to this very important issues.

23 I also want to thank the Committee for their
24 support of Bert Mason, who I think will do a splendid job on the
25 Ag. Labor Relations Board.

26 MS. DAIJOGO: Mr. Chairman and Members, Kendra
27 Daijogo with the Gualco Group, representing the California
28 Agricultural Production Consultants Association, and they

1 represent the state licensed pest control advisors, and
2 also the California Association of Winegrape Growers in
3 strong support of the confirmation of Director Helliker.

4 Thank you.

5 CHAIRMAN BURTON: Any family here?

6 MR. HELLIKER: Yes, Senator. I have my fiancee
7 whom I brought back with me from Texas, Patrice Parsons.

8 CHAIRMAN BURTON: What is your view on the fire
9 ants?

10 MS. PARSONS: I hate fire ants.

11 CHAIRMAN BURTON: Senator Lewis moves.

12 [Laughter.]

13 MR. HELLIKER: Let me point out that she used to
14 raise guinea hens, which is our effective biological control
15 technique.

16 CHAIRMAN BURTON: Call the roll.

17 SECRETARY WEBB: Senator Baca.

18 SENATOR BACA: Aye.

19 SECRETARY WEBB: Baca Aye. Senator Knight.

20 SENATOR KNIGHT: Aye.

21 SECRETARY WEBB: Knight Aye. Senator Lewis.

22 SENATOR LEWIS: Aye.

23 SECRETARY WEBB: Lewis Aye. Senator Burton.

24 CHAIRMAN BURTON: Aye.

25 SECRETARY WEBB: Burton Aye.

26 [Thereafter, SENATOR HUGHES

27 added her Aye vote, making the

28 final vote 5-0 for confirmation.]

1 CHAIRMAN BURTON: Congratulations.

2 MR. HELLIKER: Thank you.

3 SENATOR LEWIS: I would like to be added to the
4 prior roll calls as well.

5 [Thereupon this portion of the
6 Senate Rules Committee hearing was
7 terminated at approximately 9:36 A.M.]

8 --ooOoo--
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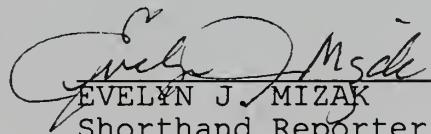
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2
3 I, EVELYN J. MIZAK, a Shorthand Reporter of the State
4 of California, do hereby certify:

5 That I am a disinterested person herein; that the
6 foregoing transcript of the Senate Rules Committee hearing was
7 reported verbatim in shorthand by me, Evelyn J. Mizak, and
8 thereafter transcribed into typewriting.

9 I further certify that I am not of counsel or
10 attorney for any of the parties to said hearing, nor in any way
11 interested in the outcome of said hearing.

12 IN WITNESS WHEREOF, I have hereunto set my hand this
13 18th day of August, 1999.

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18 EVELYN J. MIZAK
19 Shorthand Reporter
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WEDNESDAY, AUGUST 25, 1999
8:00 A.M.

1 SENATE RULES COMMITTEE

2 STATE OF CALIFORNIA

6 HEARING

10 STATE CAPITOL

11 ROOM 112

12 SACRAMENTO, CALIFORNIA

16 WEDNESDAY, AUGUST 25, 1999

17 8:00 A.M.

25 Reported by:

27 Evelyn J. Mizak
28 Shorthand Reporter

1 APPEARANCES

2 MEMBERS PRESENT

3 SENATOR JOHN BURTON, Chair

4 SENATOR JOHN LEWIS, Vice Chair

5 SENATOR JOE BACA

6 SENATOR TERESA HUGHES

7 SENATOR WILLIAM KNIGHT

8 STAFF PRESENT

9 GREG SCHMIDT, Executive Officer

10 PAT WEBB, Committee Secretary

11 NETTIE SABELHAUS, Consultant on Governor's Appointments

12 WADE TEASDALE, Consultant to SENATOR LEWIS

13 FELICE TANENBAUM, Consultant to SENATOR HUGHES

14 CHRIS BURNS, Consultant to SENATOR KNIGHT

15 MANNY HERNANDEZ, Consultant to SENATOR BACA

17 ALSO PRESENT

18 MARIAN BERGESON, Member
State Board of Education

20 SENATOR DEDE ALPERT

21 SENATOR ROSS JOHNSON

22 GARY HART, Secretary of Education

23 DENNIS MEYERS
Association of California School Administrators

25 HENRY L. ALDER
University of California, Davis

27 LESLIE PETERSON SCHWARZE, Parent
Novato

- 1 MIKE WEIMER
2 California Federation of Teachers
- 3 DIANE CHIN
4 Coalition for Civil Rights
- 5 MARY HERNANDEZ, Vice President
6 San Francisco Board of Education
7 Past President, Hispanic National Bar Association
- 8 ARCELIA PATRON, Parent
9 San Jose Unified School District
- 10 MIGUEL GARIBAY, Translator
11 El Pueblo de San Jose CABE
- 12 RICHARD ESQUIVEL
13 JFK Mecha Parents Advisory Committee
- 14 ROSIE ORTIZ, Parent
15 San Jose
- 16 MARTHA DIAZ
17 Californians Together for a Quality Education
18 California Association for Bilingual Education (CABE)
- 19 ELIZABETH E. GUILLEN
20 Mexican American Legal Defense and Educational Fund (MALDEF)
- 21 CARLOS MUÑOZ
22 Comite pro Educacion, Pittsburg
- 23 ANGIE WEI, Board of Director
24 Chinese for Affirmative Action, San Francisco
- 25 LORI SANTOS, President
26 National Coalition for Better Education
- 27 DEBORAH ESCOBEDO, Attorney
28 Multicultural Education, Training and Advocacy (META)
- 28 LEOBARDO ZAMORA, Parent
29 Pro Education Committee
- 26 BENJAMIN LOPEZ
27 California Rural Legal Assistance Foundation

1 SUSAN W. HAMMER, Member
2 State Board of Education

3 CARLTON J. JENKINS, Member
4 State Board of Education

5 MONICA LOZANO, Member
6 State Board of Education

7 VICKI L. REYNOLDS, Member
8 State Board of Education

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1 P-R-O-C-E-E-D-I-N-G-S

2 --ooOoo--

3 CHAIRMAN BURTON: Governor's appointees appearing
4 today, Marian Bergeson, State Board of Education.

5 SENATOR ALPERT: Good morning, Mr. Chairman.

6 I'm Senator Dede Alpert. I'm here to introduce
7 Marian Bergeson. I'm very delighted, as the Chair of the
8 Education Committee, to be able to do this.

9 I think because all of you know her and most of
10 you served with her in the Legislature, I just wanted to say
11 three things in the introduction, three reasons why I believe
12 you should confirm Marian.

13 The first one is her knowledge of education
14 issues. Marian has a long history of working on education
15 issues, starting on locally as a mother, as a teacher, as school
16 board member, eventually as the President of the California
17 School Boards Association here in this state.

18 After she was elected to the Legislature, she
19 served in the Assembly on the Education Committee, in the Senate
20 on the Education Committee, and in both Houses she served on the
21 Budget Finance Committee on Education as well. She's extremely
22 knowledgeable, has spent years learning about education
23 issues. And then in the '90s, as you are aware, under
24 then-Governor Wilson, she was the Secretary of Education. So,
25 she was the educational leader for this state.

26 The second reason that I believe she should be
27 confirmed is that all of us, I think, want to be judged by our
28 entire record. We all, as politicians, have faced political

1 campaigns where someone pulls one vote out of the thousands or
2 hundreds of thousands that we have cast, and paints us in a
3 light that sometimes we believe is unfair.

4 And I think that if you honestly look at Marian
5 Bergeson's entire record as a public servant, she is really an
6 example to all of us.

7 Now, I'm a Democrat from San Diego, and she's a
8 Republican from Orange County. We do not vote and did not
9 vote the same way on many, many issues, but she is a person who
10 lived up to her duty, representing her area of the state.

11 She is bright and honorable, and has, as I say,
12 been, I think, the best example we could have of a public
13 servant.

14 And finally, I think, and the most important
15 reason, is that Marian has shown herself to be an independent
16 thinker. She has been accessible to people. She has been
17 willing to listen to various points of view.

18 And when we look at what I consider some of the
19 most important moral issues that we have had to deal with as a
20 state, when we look at the voucher initiative, and when we look
21 at Proposition 187, Marian stood up to the leaders of her own
22 party, to probably many of the people who have supported her all
23 of her life, and took what she believed was the right and
24 correct stand and went against the popular opinion in her
25 party. That takes, to me, a tremendous amount of courage.

26 All of Marian's adult life has been working in
27 the best interest of children. As I say, while she and I may
28 disagree on specific issues or specific votes, I know that

1 having Marian serve on the State Board of Education means that
2 we have a person who cares about the education of all children.
3 And I don't think we could ask for anything more in someone that
4 we want to appoint to the State Board of Education.

5 CHAIRMAN BURTON: Senator Johnson.

6 SENATOR JOHNSON: Thank you very much,
7 Mr. Chairman and Members.

8 I just want to weigh in very briefly and say that
9 I have known Marian Bergeson for nearly 25 years, and I want to
10 echo the comments of my colleague, Dede Alpert. There is no one
11 that I have known in that period of time that is more interested
12 and dedicated to helping children and providing quality
13 education.

14 There are, obviously, times when there are
15 differences over specific policy recommendations. But what we
16 need more than anything is people of integrity, intelligence,
17 dedication, and people who care about the quality of education
18 that kids receive.

19 So, I just want to weigh in very, very forcefully
20 in support of Marian Bergeson.

21 Thank you, Mr. Chairman.

22 CHAIRMAN BURTON: Thanks, Senator.

23 Senator Bergeson.

24 MS. BERGESON: Mr. Chairman, Members of the
25 Committee, first I would like very much to thank Senator Alpert
26 and Senator Johnson for their very gracious remarks, and indeed,
27 we are most fortunate to have the leadership that they offer as
28 well.

1 And to each of you, my gratitude for the work
2 that you conduct on behalf of the state.

3 I consider myself very fortunate in having the
4 opportunity to continue on the State Board of Education to fill
5 the term, the unexpired term, of a previous Board Member, a term
6 that will go until January of 2001.

7 It has been a pleasure for me to work with the
8 Board. I will tell you that the Members of this Board of
9 Education are a group of the most intelligent, knowledgeable,
10 quick learners of any that I have ever had the privilege of
11 serving with.

12 It's a very difficult chore. The Board of
13 Education undertakes many, many complicated and very technical
14 issues that requires that expertise, and I feel indeed fortunate
15 that I have been given the opportunity, and Governor Davis
16 graciously allowing me to continue until the completion of this
17 term, pending confirmation.

18 I'd like to focus just a little bit on how my
19 interest in education was stimulated initially. I began back in
20 the '50s, and I was teaching at that time, where I was offered
21 an opportunity to teach in an all minority school. And this was
22 in Santa Monica. And the school that I was offered was a very
23 difficult teaching assignment. It was a fourth grade class, and
24 I remember the principal admonished me to be certain that the
25 kids stayed in their seats, and if they learned to sing and
26 dance, that that was probably the most important thing that they
27 could accomplish.

28 I was deeply offended by this, and so my effort

1 when I took on that assignment was to prove that they were
2 wrong, that the expectations could be placed, that kids could
3 learn. I initiated a science class that I thought -- it was
4 during the era of Sputnik. Many of you weren't around then, but
5 at that time there was a great deal of focus on science,
6 because, frankly, we were embarrassed that we were behind the
7 gun.

8 Surprisingly, these kids learned. They enjoyed
9 it. I didn't wait for the parents to come to the school; I went
10 to the parents because oftentimes it was difficult to bring them
11 in and to get them focused on what was going on in the
12 classroom.

13 But you know, the points that I learned, and I
14 learned more from that teaching experience than I could ever
15 have learned from books or even from other people without
16 actually going through it, but they apply even today. And that
17 is that you raise the expectations that you can receive from
18 kids; you give them the love and the encouragement and support.
19 And you must have principals that are there to support and to
20 assure that they're going to be given the environment to make it
21 happen, and parents.

22 And parents must be involved, and they must
23 understand what their children are doing. And they want to also
24 raise those expectations and give them the hope that the future
25 is bright, indeed, for each one of them.

26 It's been really a very, very, I think, the most
27 important part of my life, is being able to share one of the
28 most exciting times in education. And that is, as we look at

1 the major structural changes that are taking place, we know that
2 we have to bring our schools up to the point where they should
3 be, and that is all schools throughout California. We have
4 undergone some massive changes, the class size reduction, and
5 that's to focus on certain skills being mastered -- basic math,
6 reading -- to be assured that kids are going to go on into their
7 upper grades, knowing full well how to read, how to compute, so
8 they can be successful.

9 These new rigorous standards have been developed
10 by some of the greatest minds, not only in the nation but also
11 worldwide. They've been developed by knowledgeable, by
12 extremely intelligent educators, mathematicians and scientists.
13 We have those standards now. We're developing the curriculum,
14 the framework, to be able to match those standards. And the
15 all-important task which we have much to do, and that is the
16 teacher training and retraining to be certain that they can take
17 these materials, give them to the children in a way that they're
18 going to be able to learn and retain them.

19 We are currently undertaking the effort of
20 accountability, and that is with Senator Alpert's bill, SB 1X.
21 The Board does much in furthering the legislative efforts and
22 implementation, setting up the regulations. It's an awesome
23 task, as we look at deadlines, sometimes, that are hard to
24 realize. But we know that whatever we're doing is building the
25 momentum for all of our kids.

26 And with accountability, I think it's important
27 that we stress, we are not to punish honest efforts, but we are
28 to assure that all children are going to learn, and they're

1 going to improve. We need to provide that remediation, the
2 community support that is going to give the reinforcement and
3 give the backing, and the understanding that kids are going to
4 be able to achieve.

5 True reform must empower underachieving schools
6 to adopt all of the best practices of the state's very best
7 schools. We have to assure that every school has the
8 resources, and, I might add, those resources be that they all
9 have opportunities for advanced placement, that they have the
10 SAT preparation courses that we have in our very finest schools,
11 and we want to make certain that every child is given the access
12 to opportunity and to succeed.

13 This takes strong leadership. It takes strong
14 leadership at the site level, and we need to have incentives for
15 schools to provide effective long-term strategies and
16 methodologies that are going to raise student achievement. Of
17 course, we need to have the well-trained teachers and the
18 administrators to do the job.

19 Now, along with this, we need to have an
20 assessment tool that is going to be reliable and that is going
21 to have the concentrated effort. The Board, the Superintendent,
22 the Legislature, the Governor, the Department, all of us working
23 together to make certain that we can accomplish this. It has
24 been to be a line to our new state -- or our new class academic
25 standards.

26 And I would tell you that after 50 years in
27 education, that I look forward to learning things every day. I
28 found as I attended a Career Day in Santa Ana in a middle

1 school, and I realized how these kids are challenged just to get
2 to their seats everyday, a tremendous job. And they oftentimes
3 don't have the support, the educational back-up support that
4 they need. And yet, looking at those classes, and how they are
5 inspired through mentors and teachers who really care and are
6 making a difference.

7 I serve on the Board of Directors of the
8 Orangewood Child Abuse and Intervention Center of the which the
9 same thing. You visit the people that are visiting and working
10 with these kids, giving them hope for the future, and I think
11 that's where our solutions truly lie, and that is because people
12 care, and they're willing to put the time and the effort to make
13 things happen.

14 We need the inspiration, the motivation. We need
15 to make certain that every child is given a loving environment
16 to be able to go forward and succeed.

17 Now, as my commitment to the Board, and I would
18 say that as Senator Alpert indicated, I have worked with most of
19 you for at least 20 years, in some cases. Senator Hughes and I
20 go back a long, long way, and have worked on education issues
21 over the years.

22 Of course, to all of you, it has been truly a
23 wonderful experience at being able to have served in both Houses
24 of the Legislature. And I think you know to be a team player, I
25 have always worked to build consensus, and I have, frankly,
26 enjoyed the challenge of bringing divergent views to focus. And
27 when I disagree, sometimes I even break ranks with my party, as
28 I'm sure Senator Lewis could attest to, that I have a streak of

1 independence because I believe that whatever I do has to be in
2 the best interest of kids.

3 But I am confident that we are on the right
4 course, that with the reforms that were initiated under the
5 Wilson administration and now continuing with the Davis
6 administration, these changes are going to make a difference.
7 And I have full confidence that with the Board, and certainly
8 with the Board as we are now working, that we have a tremendous
9 challenge ahead of us, and I hope that with your support, I can
10 continue to work in this all-important work. I think it will
11 bring great credit to the State of California.

12 I thank you for the opportunity to be before you,
13 and look forward to questions.

14 CHAIRMAN BURTON: Senator Baca.

15 SENATOR BACA: Thank you very much, Mr. Chair.

16 Marian, thank you very much for coming before us.
17 I appreciate the fact that you've indicated that we have the
18 best interests every children at heart, and I think that's what
19 all of us have in any kind of a representative that we want to
20 continue to serve on the Board.

21 I want to start off with the statement that
22 you've indicated. You indicated that you started teaching back
23 in 1950; is that correct?

24 MS. BERGESON: That's correct.

25 SENATOR BACA: And one of the statements that you
26 indicated, surprisingly the kids learned.

27 Did you have a low esteem of the kids? Why was
28 that statement made?

1 MS. BERGESON: The statement came about as a
2 result of what the principal had indicated to me when I was
3 hired for the job. And the admonition was that the most
4 important thing was that the kids conform, that they be in their
5 seats, and that they were probably pretty good at singing and
6 dancing, and that academic expectations were not there. That
7 offended me.

8 SENATOR BACA: I just wanted to make sure that it
9 wasn't a stereotype based on minorities and others, that you had
10 low esteem in terms of their ability to learn, because we want
11 all children to learn and all children to have access.

12 MS. BERGESON: I certainly agree with that.

13 SENATOR BACA: Let me ask you a couple of other
14 questions in reference to labor issues.

15 What is your position on collective bargaining?

16 MS. BERGESON: I have always respected the law in
17 collective bargaining. I was in the original development of the
18 Rodda bill, 160. As President of the California School Boards
19 Association, we negotiated in the development of that
20 legislation.

21 SENATOR BACA: What about family leaves and
22 minimum wages that pertain to collective bargaining? What have
23 your stands been in those areas?

24 MS. BERGESON: There have been some bills I've
25 supported and some that I have not.

26 SENATOR BACA: I have a list of a couple that you
27 did not, and you opposed, like, I guess, AB 368, the Moore bill;
28 AB 77, which is another Moore bill that dealt with family leave.

1 Then there were some other bills that you opposed, SB 1658,
2 Torres bill.

3 And then in 1987, you opposed increasing the
4 minimum wages in that area.

5 So, apparently you were against some of those
6 collective bargaining bills that even dealt with minimum wages.

7 MS. BERGESON: I think each of those bills --

8 CHAIRMAN BURTON: For the record, I don't think
9 any school teachers are paid below the minimum wage. Its
10 relation to minimum wage --

11 SENATOR BACA: It could have been for classified
12 employees.

13 CHAIRMAN BURTON: I don't think classified
14 employees are paid below the minimum wage.

15 I think the bills were minimum wage bills dealing
16 with the minimum wage; not dealing with education. That's all.

17 SENATOR BACA: Then I will go on, thank you.

18 Do you support contracting out of public employee
19 jobs?

20 MS. BERGESON: I have carried legislation in
21 allowing for contracting out. I believe in effective and cost
22 effective delivery of services, and where ever they can be
23 conducted most effectively, whether they be private or public, I
24 think that the public's interest is served by the effective
25 delivery of those services.

26 SENATOR BACA: What is your position on binding
27 arbitration of discipline?

28 MS. BERGESON: As a local government official, I

1 have not supported binding arbitration for public employees.

2 I have supported binding arbitration in the
3 private sector and for other issues that I think arbitration is
4 a reasonable solution.

5 SENATOR BACA: What is your position on teacher
6 in-service day and classified school employees?

7 MS. BERGESON: That becomes a budget issue. I
8 think it's dealt with. It would depend entirely on what the
9 budget situation was within that school.

10 SENATOR BACA: What is your position on
11 affirmative action, or Proposition 209?

12 MS. BERGESON: I supported 209. I think it
13 placed the burden clearly where it should be, and that is on
14 K-12. I am a strong believer, and have seen some positive
15 results in the way of outreach, where we have our agencies
16 working together to provide outreach for young people.
17 Providing for an influence and a motivation towards higher
18 education.

19 Again, as I stated in my opening remarks, I think
20 we need to have SAT training development at all of our schools.
21 And mentoring, tutoring, those programs, I think, we will see a
22 great deal of equity provided just by giving the opportunity to
23 our young students in the K through 12.

24 SENATOR BACA: Yet we've seen that the effects
25 even of Prop. 209 now, that many students are not getting into
26 our institutions. We believe it starts at the K through 12,
27 that's part of the responsibility, not only in reference to the
28 training academically, preparation or others, but the ability to

1 have accessibility is very important in that area.

2 What was your position, I heard Dede Alpert
3 indicate, but I'd like to hear your position on Proposition 187.
4 What was your position on 187?

5 MS. BERGESON: My position is that children are
6 here, they should be in school.

7 SENATOR BACA: What was your position on
8 Proposition 98, the initiative to guarantee funding for
9 education?

10 MS. BERGESON: I had concerns initially about
11 Proposition 98, because I feared that it would become a minimum
12 rather than -- it would become a maximum rather than a floor --
13 a floor rather than a maximum. And some concerns about what
14 would happen to higher education.

15 I have supported Proposition 98 as it was enacted
16 by the people. In fact, under the administration of Governor
17 Wilson, we exceeded the 98 provision in both years where there
18 was budget surplus. That money was dedicated to education.

19 SENATOR BACA: But originally you opposed
20 Proposition 98?

21 MS. BERGESON: I indicated concerns over
22 Proposition 98 because I felt that it could very well be
23 restrictive.

24 SENATOR BACA: What was your position on
25 Proposition 227, that measured the effectiveness in the
26 bilingual education in California.

27 MS. BERGESON: I did not support 227.

28 SENATOR BACA: And in reference to, I appreciate

1 the fact that you took a stand in reference to the voucher
2 system, but what was your position on the Scholarship
3 Opportunity Program?

4 MS. BERGESON: I don't believe -- I should say I
5 do believe that every child has a right to a decent education.
6 Every school should be given an opportunity to improve. And in
7 the event that improvement is not provided, children should not
8 be trapped in schools that simply do not perform for their
9 benefits.

10 I feel that the stimulation and the competition
11 of Opportunity Scholarships would allow public schools to become
12 better.

13 I opposed the Voucher Initiative, which, I
14 believe, was 174.

15 SENATOR BACA: Wasn't the Scholarship Opportunity
16 similar to voucher system but another way of funding private
17 schools or getting students into private schools?

18 MS. BERGESON: My intent has always been to make
19 public schools better. The competition, I do believe, makes
20 them better.

21 SENATOR BACA: That's it at this point.

22 CHAIRMAN BURTON: Senator Lewis.

23 SENATOR LEWIS: Good morning.

24 MS. BERGESON: Good morning.

25 SENATOR LEWIS: Senator Bergeson, in 1991, you
26 received the California School Boards Association State Senator
27 of the Year Award. In 1987, you were named Legislator of the
28 Year by the League of California Cities, and Woman of the Year

1 by the Anti-defamation League of the B'Nai Brith.

2 We certainly know each other on a personal and a
3 professional level, working together both in Sacramento and
4 Orange County. But it also is interesting that over years, you
5 and I have had our differences.

6 In fact, there have been any number, for example,
7 of political campaigns in Orange County where I have perhaps
8 supported the conservative Republican candidate, and perhaps
9 you've supported someone a little more moderate. That still
10 goes on today, I might add.

11 Do you find it as amusing as I do that there have
12 been people in these last few weeks trying to portray you as a
13 right-wing zealot?

14 MS. BERGESON: I'm sure many of my
15 colleagues in the Legislature would find that somewhat amusing.

16 SENATOR LEWIS: I just wanted to ask you a little
17 bit about school testing. We have the STAR test, the matrix
18 test which is underway right now.

19 Can you describe, perhaps, the process right now
20 that's being utilized to develop the matrix test?

21 MS. BERGESON: The development of the matrix
22 test? Currently the Board has approved an RFP for the
23 development of the matrix test. The matrix test is a test that
24 is a sampling. It's not any individual test, but it tests the
25 depth of the curriculum. In other words, how well are students
26 performing against the California state standards.

27 That test along with the STAR test, which
28 eventually will be completely aligned to the state standards,

1 the augmentation part of it this year was, will then form the
2 accountability index that would then judge how well our students
3 are performing. That, of course, is one of the major components
4 of our package on accountability. That assessment will give us
5 a very fair and an accurate index as to how well our students
6 will be accomplishing our goal, working towards excellence in
7 our standards.

8 SENATOR LEWIS: I certainly believe that testing
9 is an incredibly important component of our educational system.

10 Do we need, however, both the STAR test and the
11 matrix test? Would there be some way of combining them to
12 create some better efficiency?

13 MS. BERGESON: That was the wish of the
14 Legislature, and the State Board of Education is following
15 through the dictates of the legislation. And that was developed
16 through the legislative process as far as how that measure would
17 be developed, or what would be within that accountability index.
18 So, that was, I think, part of the total package that was,
19 again, the legislative purview.

20 SENATOR LEWIS: One of your responsibilities is
21 to identify legislative proposals for possible Board support.

22 MS. BERGESON: I'm sorry?

23 SENATOR LEWIS: One of your responsibilities, as
24 I understand it, is to identify legislation for possible Board
25 support.

26 Is it true that you helped gather support for
27 bills benefitting bilingual school children, like AB 56 by
28 Assemblywoman Mazzoni, Senate Bill 395 by Senator Hughes, 638 by

1 Senator Alpert?

2 MS. BERGESON: It's hard for me to remember each
3 of those, but yes, the latter ones, yes, very definitely we were
4 very much involved in the development of that legislation,
5 particularly 638.

6 SENATOR LEWIS: Thank you.

7 CHAIRMAN BURTON: Senator Hughes.

8 SENATOR HUGHES: Thank you, Marian. Very good
9 seeing you again.

10 I'm happy to tell you and the Members of this
11 audience, I was around with Sputnik, too, just like you were.
12 You know, you're happy if you get to live that long.

13 The other thing, I know your background, but as
14 you follow through these various roles, you were President of
15 the CSBA, you were a State Legislature in the Assembly and the
16 Senate, and a County Supervisor, then Secretary of Education.
17 All of these various roles you had different people that you had
18 to be accountable to.

19 How did you juggle these roles? How did you feel
20 you should have been accountable? To whom should you have been
21 accountable when you were President of the School Board, when
22 you were a State Legislature, when you were County Supervisor,
23 and then when you were Secretary of Education?

24 MS. BERGESON: Well, I think the level of
25 responsibility that you assume, you are accountable for
26 reporting to that particular constituency.

27 I might add an example. I had a rather strange
28 Senate district at one time. It went from the

1 Mexican-California border to the Los Angeles County line. And
2 at that time I represented Imperial County, Riverside, San
3 Diego, and Orange Counties. And it was a microcosm of the
4 state.

5 But I think representation within that area, that
6 I never had any complaints from any part of that district, that
7 I felt that I spent the time and the effort, and I really didn't
8 find it a conflict as such. I probably spent more time per se
9 in Imperial County simply because the needs were greater, the
10 need for government services were greater there than perhaps
11 many of the sections within Orange County.

12 When I served as the Local Government Chairman,
13 which I did for ten years in the State Senate, I was concerned
14 about the state as a whole. We were looking at the health of
15 cities, counties, all special districts, and that was a
16 responsibility that I assumed.

17 When I was on the local Board of Education, I
18 looked to the needs and to the direct effects of other
19 governmental agencies upon local education, and that became a
20 roll that I assumed as well.

21 I think you're responsible to the people that
22 elect you, or to the duties or the assignments that you're
23 given, as we are now with the State Board of Education. Our
24 charge is for all students, and we want to make certain that
25 every student in California is successful.

26 SENATOR HUGHES: Thank you very much.

27 I'd like to know, as Senator Baca went back and
28 looked at bills that you voted for one way or the other, I think

1 your memory is amazing, because if I looked back in those years,
2 I couldn't really remember specifically, and even numbers. I
3 mean, that's really confusing.

4 CHAIRMAN BURTON: How about yesterday?

5 SENATOR HUGHES: No, but I know tomorrow and
6 yesterday. That's fairly recent.

7 Thank you very much for telling me that I should
8 be on my toes. If I didn't do something right, that's your
9 problem, but I do something right for my constituents, just like
10 Senator Bergeson did.

11 You know, I was looking around for stuff, too,
12 just like you were, Senator Baca, and I found a letter that you
13 wrote to the State Board of Education on June the 28th of this
14 year. And you cited two goals that you would hope could be
15 pursued and something done about.

16 One was to establish an English Learner Advisory
17 Committee, I think you called it ELAC, ongoing advisory board to
18 act as a forum for issues pertaining to programs and services
19 for English learners. And you want to advise appropriately on
20 these issues.

21 Has that been formed yet? And what are your
22 objectives for seeing that realized?

23 MS. BERGESON: Well, Senator Hughes, no. The
24 response is that I have not received a response.

25 The letter was submitted to staff --

26 SENATOR HUGHES: Response from whom?

27 MS. BERGESON: This was submitted, the date of
28 the letter was June 28th. It was presented at the July Board

1 meeting. We have not had a meeting since July, since the Board
2 does not meet in August.

3 But I came upon the idea as I was observing the
4 effectiveness of the Special Education Advisory Committee. And
5 as we were looking at the issues, particularly related to
6 English language learners, and the need to get the input that
7 was necessary to allow us to make the best decisions possible,
8 that it seemed advisable to me, and an appropriate response
9 would be to have the input through the special advisory
10 committee.

11 Then, in addition to that, hold hearings to
12 determine how the policies of the Board were being received;
13 how we were able to improve if improvement was necessary. In
14 other words, to hear from the field exactly what was going on.

15 We have a great concern throughout the state as
16 far as how we deal with the needs of English learner children.
17 I think that that request is very much in keeping with the
18 desire of the Board to do the best possible job for all of our
19 kids.

20 SENATOR HUGHES: In this letter, you also
21 requested something else, that the State Board have a series of
22 briefings on the various programs and services.

23 Have you gotten a reply on that yet?

24 MS. BERGESON: Well, it's the same response.
25 When we reconvene in September, my hope is that we will have
26 some information and some plan to go forward with these
27 suggested recommendations.

28 SENATOR HUGHES: So, that you think these two

1 goals and objectives will help not only you, but the other
2 Members of the Board?

3 MS. BERGESON: There seems to be a general
4 agreement among the Board Members. No one spoke in opposition
5 to it.

6 SENATOR HUGHES: What do you know about bilingual
7 education? And how do you have any knowledge of this?

8 MS. BERGESON: Well, of course, I visited many of
9 the schools. I've talked to teachers, I've talked to people on
10 the front lines that are working with it. I have a very strong
11 working relationship with schools in Orange County that have a
12 predominance of non-English speaking.

13 I have a daughter who's a principal at a
14 non-English -- she's been a non-English speaking -- or, I should
15 say, an English language learner. She's been a bilingual
16 teacher for over 13 years. I get a lot of free advice from her,
17 and she's quick to --

18 SENATOR HUGHES: Do you take it, because
19 sometimes mothers don't take daughters' advice.

20 MS. BERGESON: I never admit that I take too much
21 of it, but it always does have quite an impact on her
22 advice.

23 SENATOR HUGHES: How do you feel about vouchers,
24 and I think Senator Baca mentioned that a little bit?

25 MS. BERGESON: Well, as I indicated, I have been
26 involved in public education for 50 years, so I think you could
27 say that I'm a strong proponent of public education.

28 I believe that public education is the access

1 that our young people will have to success. I think it's
2 probably of the greatest interest now of any of the issues
3 facing either Legislators, and even mayors, I understand, are
4 getting very much involved in education.

5 I think we need to do so everything that we can
6 to make it better. And I think that where we offer options,
7 that it Improves the system in general.

8 I have not supported general voucher programs
9 such as 174, which I opposed.

10 SENATOR HUGHES: The last question I have for
11 you, and that is, the dropout. I am really very, very concerned
12 that the dropout rate is getting higher and higher.

13 What can the State Board of Education do to help
14 lower that number?

15 MS. BERGESON: Well, I think you've hit at the
16 crux of all of the challenges that we have ahead of us, and that
17 is, how do we motivate, how do we inspire our kids to want to
18 get an education, recognizing how important it is to their
19 lives?

20 I think if we would do the job, if we can do the
21 job, and working with parents, and working with our communities,
22 with our programs, and mentoring, and full responsibility with
23 the private sector, with nonprofits, to really engage themselves
24 in our educational programs. After school programs, I think,
25 offer a wonderful opportunity to extend beyond the actual school
26 hours to meaningful programs, meaningful involvement, tutorial
27 programs, mentoring, remediation if necessary to make kids
28 successful.

1 Kids are pushed out of the system in many cases
2 simply because they have not had the opportunities to fill a
3 meaningful understanding of the importance of education.

4 I think dropouts are more symptomatic of the
5 failure that we've had in initiating the early intervention
6 prevention programs to make certain that kids are going to be
7 successful.

8 I think with the direction that the State Board
9 has taken, and the Legislature, the Governor's Office, that
10 we're on our way to really assuring that kids will have the
11 maximum opportunity to find that success.

12 SENATOR HUGHES: Thank you.

13 CHAIRMAN BURTON: I have one question.

14 Can you explain the April 8th vote to revise
15 Title 5 regs to guide the classification, reclassification of
16 English learners? You know the issue of which I'm talking?

17 MS. BERGESON: That question, of course, has been
18 of great concern. I would like to allay the fears of those that
19 feel that somehow we're trying to damage non-English speaking
20 children by that particular action.

21 I assure you, I would never take a vote that I
22 felt in anyway was going to harm any child or any group of
23 children or children in general.

24 The Board, in changing those regulations in
25 conformity to 227, and to provide for a transitional time, there
26 were changes made in the Title 5. But specifically, and I'd
27 like to indicate that this is something that really needs to be
28 stressed, that in doing so, the Board adopted Section 11302,

1 which requires the services continue to be provided to English
2 learners until the student achieves English language
3 proficiency, comparable to that of the district's average native
4 English speakers and recoups any academic deficits in the core
5 curriculum that resulted from the language barriers.

6 So, the message is clearly there that placement
7 of students in the appropriate learning situation is not only
8 desirable, but it's required under the Title 5 regulations.

9 I might add, in keeping with that, Senator
10 Alpert, in her bill, SB 638, is providing for the development of
11 the English language development standards which are comparable
12 to the English language standards that have been adopted for all
13 students and the assessment that follows to assure proper
14 placement, performance measurement, and is provided within the
15 provisions of our entire accountability package.

16 CHAIRMAN BURTON: Thank you.

17 Senator Baca.

18 SENATOR BACA: As a follow-up to that, that was
19 one of the questions I was going to ask. I appreciate the
20 President Pro Tem Burton asking the question in reference to the
21 April 8th, because I was very curious in reference to your vote
22 at that time that dealt with assessing and classifying and
23 reclassifying English learners.

24 Even though there was strong opposition, why did
25 you take that stand at that point? Can you explain that?

26 MS. BERGESON: Much of the work on this, of
27 course, was prior to the time that I was on the Board of
Education. I was active after January.

1 This was an action that was taken, had been a
2 continuing activity that had been going on with Board, trying to
3 -- desperately trying to meet a timeline in coming up with the
4 requirements under 227, and to bring about a full understanding
5 of the responsibilities to English language learners. That was
6 done with what I considered at that time the appropriate
7 response to make.

8 As I said, all assurances are given that children
9 are protected under the provisions, at the same time, given some
10 flexibility.

11 I would hope that we would give some
12 consideration that teachers are in a good position to know how
13 to deal with these young people in a way where they are going to
14 be protected. I don't think anyone is out there trying to
15 eliminate programs that are going to be beneficial to kids. I
16 think we all want to work in the best efforts of the children
17 that we see needing special help.

18 And, of course, this is an area that we all
19 recognize is a tremendous challenge, and one that we are going
20 to do everything in our power to be able to provide the access
21 and the programs that are going to be beneficial, and in fact,
22 are going to be extremely beneficial at this point.

23 SENATOR BACA: Marian, it would have been easy
24 for me, I guess, at that point, in terms of my particular vote,
25 had you voted otherwise. But because you voted a certain way,
26 you had a chance to redeem yourself in reference to bilingual
27 education, continuing education, and for the English learners,
28 too, as well, and that was a guide.

1 What guides do teachers now have to classify
2 students? Do you know?

3 MS. BERGESON: As I indicated, through the code
4 section I think it's very, very clear that teachers are to look
5 at children and place them in those positions. We have
6 assessments now that are given.

7 Currently, under the present provisions, though
8 they are given some flexibility that they are to place them in
9 these courses or in these classes that are going to give them
10 the benefit of a proper developmental placement.

11 And again, as this legislation is going forward,
12 which is in keeping with the position that the Board has had,
13 which the Legislature has adopted, Senator Alpert's bill is very
14 much in keeping with the positions that the Board has had.

15 SENATOR BACA: One final question, Mr. Chairman.

16 What stands have you taken at the Board to
17 protect the quality of education in charter schools?

18 MS. BERGESON: I think the charter school
19 legislation, again, the Board has been following the provisions
20 which have been set up. We have acted on various funding models
21 to try to provide the opportunities for development of charter
22 school, protections of charter schools, in a way that the
23 Legislature originally intended.

24 And Senator Hart, who was the author of the bill,
25 worked closely with his office, the Governor's Office, in making
26 certain that the intent and purposes of charter schools are
27 protected.

28 SENATOR BACA: Should charter schools have the

1 same binding arbitration collective bargaining that public
2 schools should have?

3 MS. BERGESON: I don't believe public schools
4 have binding arbitration.

5 I believe that the flexibility of charter schools
6 is one that relieves them of some of the constraints of the
7 Code. However, employees are treated under the action taken by
8 the Board consistent with the law as the legislation is now in
9 current form.

10 SENATOR BACA: Thank you.

11 CHAIRMAN BURTON: Witnesses in support.

12 SECRETARY HART: Mr. Chairman and Members of the
13 Committee, my name is Gary Hart. I'm Secretary of Education for
14 the Davis administration.

15 On behalf of Governor Davis, I want to urge the
16 Rules Committee to confirm Marian Bergeson and the other Members
17 of the State Board of Education before you today, all of whom
18 have been appointed by Governor Davis to the State Board of
19 Education.

20 Governor Davis believes that these appointments
21 are among the most important of his administration, since the
22 Members of the State Board of Education have major
23 responsibilities for carrying out his and the Legislature's
24 recently enacted education reform measures that focus on
25 strengthening academic standards and developing a stronger
26 system of public accountability in our schools.

27 I want to make just three brief comments, if I
28 may, Mr. Chairman. I know your time is very limited.

1 The three comments that I want to make are, first
2 of all, Senator Alpert made reference to Senator Bergeson's
3 outstanding background in terms of her experiences and
4 expertise. I think that brings a great deal to the State Board
5 of Education.

6 I would just add that I think Senator Bergeson,
7 and those of us who have had an opportunity to work with her
8 know some of the personal qualities that she brings to this
9 process in terms of her patience, her diligence, her respect for
10 other points of view that can serve the State Board of
11 Education, I think, in a very distinguished manner.

12 I know in my conversations with Members of the
13 State Board, both those who have been appointed by Governor
14 Davis and those who were appointed by Governor Wilson, to a
15 person they have found Marian Bergeson has been an outstanding
16 Member of the State Board of Education and has contributed a
17 great deal to the deliberations and work of the Board.

18 The second point that I wanted to make is that,
19 from my own personal experience working here in the Legislature
20 with Senator Bergeson on education matters, and I was just
21 thinking as Senator Hughes was asking her questions, that it was
22 in this very room, back in 1983, that we served on a conference
23 committee that led to the passage of the Hughes-Hart Education
24 Reform Act, and then Assembly Member Bergeson was one of our
25 conferees. And we worked in this room for many, many hours to
26 put forward a bill that I think we're all very proud of.

27 But I think in terms of Marian's contributions to
28 the legislative process, I particularly want to make note of her

1 leadership and her work on issues relating to recruitment of
2 teachers and support of classroom teachers.

3 I think of almost all of the bills that we've
4 passed in the last 20 or 30 years, the leadership that Marian
5 Bergeson provided in the development of the new teacher program
6 that is now called the Beginning Teacher Support and Assessment,
7 is one of the most effective state education programs that was
8 ever passed by this Legislature.

9 As we now move to try to get kids to reach high
10 academic standards, we are going to be focusing much more of our
11 attention on how can we help teachers, how can we get the very
12 best people into the classroom. And Marian's experience and
13 background on these issues is going to be of enormous benefit to
14 the State Board of Education and to all of us that are involved
15 in key education issues to try to improve student achievement in
16 the State of California.

17 The last point that I wanted to make,
18 Mr. Chairman and Members, is that I know in looking at some of
19 the letters of opposition, there have been issues raised about
20 Marian's commitment to language minority children. And there
21 are many contentious and complicated issues that have come
22 before the State Board of Education.

23 But I think the record needs to show that Marian
24 Bergeson has been supportive of the Governor and this
25 Legislature's significant financial support in this year's
26 budget for increased funding for English language learners.

27 She has been supportive of the State Board's
28 action to develop English language development standards, and to

1 develop an examination consistent with legislative directions so
2 that we have in place some mechanisms by which we can be
3 evaluating and assessing English language learner students on a
4 regular basis as to what progress they're making to learning the
5 English language. That's consistent with federal law. It's
6 consistent with what I think the intentions of this Legislature
7 are.

13 CHAIRMAN BURTON: Any other witnesses in support?
14 Briefly.

15 MR. MEYERS: Thank you, Mr. Chairman and Members.
16 I'm Dennis Meyers with the Association of California School
17 Administrators, speaking in support of Ms. Bergeson's
18 nomination.

When we think of Marian Bergeson, that's when I
bring up four words that come to mind. One obviously is
experience, her breadth of experience, starting as a parent,
teacher, school board member, on up the line, even County Board
of Supervisors. She is very well qualified, even argue that
she's over qualified for such a position.

That's always impressive to me that somebody could have almost 50 years of experience and only be 39 years of age. That's particularly impressive to us.

28 But other things, too, just her commitment and

1 her dedication, I think, are pretty obvious to those of you
2 here.

3 But one word I just want to focus on, and that is
4 one of collaboration. Ms. Bergeson -- we are never going to
5 agree on everything. We know that as an Association, just as we
6 don't agree with everything that you all vote on as well.

7 But we do know that in Marian Bergeson, we have
8 someone who is a collaborator, someone who doesn't bring a
9 specific agenda to the State Board that she wants to force down
10 the throats of public schools, but somebody who's willing to
11 sit and talk, take in information, try to change minds, but
12 also have an open mind to have her mind changed as well.

13 And while we know we're never going to agree 100
14 percent, we know that we can have that discussion with Marian
15 Bergeson, and that she's open to our input as school
16 administrators as we try to serve our 6 million students.

17 So, with that, we are supportive of her
18 nomination. We ask that you keep that open mind as well and go
19 ahead and support her and approve her, because we think that she
20 will work well with the Board as it's now and as it will be in
21 the future. So we ask for your support.

22 Thank you.

23 CHAIRMAN BURTON: Other witnesses in support,
24 briefly.

25 MR. ALDER: Senator Burton and Members of the
26 Rules Committee, my name is Henry Alder. I'm Professor of
27 Mathematics at University of California at Davis, and a former
28 member of the State Board of Education, having been appointed by

1 Governor Jerry brown.

2 As such, I have kept in close contact with the
3 work of the Board. I've been deeply impressed with the complete
4 dedication to the badly needed improvement of the K through 12
5 education of California's children.

6 Since her appointment to the Board in September,
7 1998, Marian Bergeson has made significant contributions to the
8 work of the Board. She's uniquely qualified for this effort as
9 a result of her 50 years in education, starting as an elementary
10 school teacher in Santa Monica during the 1950s, and ending as
11 Secretary of the Governor's Office of Child Development and
12 Education from 1996 to '98.

13 It is hard to imagine anyone having a more
14 appropriate and impressive record of achievements qualifying for
15 membership on the State Board of Education than Marian
16 Bergeson. In all her life, she has been a model for what is so
17 badly needed in education, setting high expectations for all
18 students, advocating special programs for minority students,
19 developing outreach programs, promoting better teacher
20 preparation and staff development.

21 Just considering only the honors and awards she
22 has received must be unprecedented for a Member of the State
23 Board. As if that were not enough, she stands also out as a
24 Member of the Boards obviously having done her homework, being
25 objective, fair, and showing a willingness to listen and learn.

26 It is no wonder, then, that she has the
27 endorsement for the position as a Member of the State Board of
28 Education from both the previous and current governors and the

1 current Secretary of Education, as well as those from both
2 parties truly interested in a significant advance in education
3 for California's children.

4 At a time when the State Board has adopted new
5 world-class academic standards for California's children,
6 adopted text books designed to teach these standards, and
7 implemented appropriate assessments to measure students'
8 achievement of these standards, it is clearly imperative that
9 there be some continuity in the membership of State Board of
10 Education. It will be nothing short of a calamity to remove
11 from the Board a person with the exceptional qualifications of
12 Marian Bergeson after only ten months on the Board.

13 A strong confirmation vote for Marian Bergeson by
14 the Senate will not only retain a superbly qualified Member on
15 the State Board of Education, but will also send a clear signal
16 to the entire state that the Legislature is determined to
17 continue its support of sound education for California's
18 children, and wants to see continued significant progress in
19 this direction.

20 She's vitally needed to implement the changes
21 that the Board has made during the past three years to make a
22 quality mathematics education with first-class text books
23 available to all of California's children.

24 Allow me to thank you for this opportunity to
25 testify.

26 CHAIRMAN BURTON: Thank you. Other witnesses?

27 MS. SCHWARZE: Good morning. My name is Leslie
28 Schwarze, and I am a School Board Member in Novato. I'm also a

1 member of the State Curriculum Commission.

2 But I am not here speaking on behalf of either of
3 those groups. I'm here as an individual parent, and I will be
4 brief. I'm just coming off of vacation.

5 I wanted to let you know, I have a 7th grader and
6 a 3rd grader. And my 7th grader, I've been battling this thing
7 since she was in kindergarten.

8 What you've done for us in California as parents
9 is nothing short of heroic as a Legislature. And I was elected
10 in 1997 based on that idea that the Legislature brought forward
11 starting in 1995.

12 And I can honestly tell you as a local board
13 member that if you don't have people sitting on your State Board
14 of Education who have a history and an understanding of what you
15 have been trying to do for the students of California, it will
16 not be carried forward in the way you had intended.

17 This is the best thing that's ever happened. I
18 can't think of a taxpayer who isn't just delighted at what's
19 being brought forward.

20 So please, please keep this in mind during the
21 confirmation. You must consider people who have a background
22 and an understanding of what this is about, because their
23 knowledge is really what's going to allow this to be more than
24 just the latest fad.

25 Thank you.

26 CHAIRMAN BURTON: Thank you.

27 Other witnesses in support?

28 Witnesses in opposition, please come forward.

1 And I would ask that there not be much repetition because we've
2 all received a mountain.

3 People, there's four. There's two other seats up
4 here with mikes, the point being, people can come up and sit
5 there.

6 I would like to try to limit the opposition,
7 including questions, to 45 minutes.

8 MR. WEIMER: My name is Mike Weimer. I'm
9 representing the California Federation of Teachers today.

10 We oppose Marian Bergeson's confirmation to the
11 State Board of Education. We do so because Ms. Bergeson's views
12 on issues of concern to our members and to our labor affiliates
13 stand in antithesis to some of our core beliefs.

14 First, Ms. Bergeson has been a supporter of what
15 are euphemistically called Opportunity Scholarships. In
16 practice, these scholarships do nothing to attack the root
17 problem of poor academic performance. Allowing parents to
18 transfer their children to, quote, "better", unquote, schools
19 simply ignores the problem of providing educational services to
20 all students. In effect, this implies that student performance
21 will improve if we simply shift the burden of education to
22 another site.

23 The Federation has consistently opposed such
24 measures, and today we oppose the confirmation of someone who
25 supports that idea.

26 Second, Ms. Bergeson has failed to support
27 affirmative action, an idea that offers every individual an
28 equal opportunity to succeed. Everyone is entitled to receive

1 any necessary assistance, both within the educational system and
2 outside the system in order to become active, fully
3 participating members of society. Without affirmative action,
4 many will simply be allowed to sink or swim on their own.

5 The Federation opposes such a concept, and today
6 opposes the confirmation of one who does not support affirmative
7 action.

8 Finally, Ms. Bergeson has failed to support the
9 right of workers to collectively bargain with an employer. The
10 right to reach an agreement with an employer from a position of
11 equality is a fundamental tenent of all labor unions. Without
12 that right, the only option left for the employees is collective
13 begging.

14 The Federation opposes any attempt to deny equity
15 to any group of employees and today opposes the confirmation of
16 one who does not support collective bargaining.

17 In conclusion, the Federation believes that as a
18 Member of the State Board of Education, Ms. Bergeson would
19 represent a particularly narrow viewpoint. We believe that is
20 not in the best interests of the state, nor its educational
21 system.

22 We would ask the Committee to vote no on the
23 confirmation of Marian Bergeson to the State Board of Education.

24 CHAIRMAN BURTON: Thank you.

25 Ma'am, we'll go back to front.

26 MS. CHIN: Senators, thank you for the
27 opportunity to present remarks about this important nomination.

28 My name is Diane Chin. I'm currently

1 representing the Coalition for Civil Rights, which consists of
2 over 50 organizations, ranging from the International Ladies
3 Garment Workers to the Child Care Law Center, to the Lawyers'
4 Committee for Civil Rights and many others.

5 I'm here to ask you to oppose Ms. Bergeson's
6 confirmation because her record as a whole as a Legislator and
7 as member of the school board demonstrate that she is not
8 qualified for this position in California. Her full record,
9 taken as a whole, does contain a theme which clearly indicates
10 that she is anti-civil rights, anti-bilingual education, and
11 anti-labor.

12 Many of you have received letters or in-person or
13 telephone communications opposing Ms. Bergeson's nomination.
14 Those of us who have mobilized to oppose her confirmation do so
15 as individuals and agencies with long and proven track records
16 defending the rights of poor children to access equal
17 educational opportunities, to advancing the rights of workers to
18 fair treatment on the job, and as advocates for the civil rights
19 of underrepresented communities.

20 In California, close to 65 percent of public
21 school students are students of color, and close to 1.5 million
22 are limited English proficient. By the year 2007, the State's
23 Department of Finance projects that 85 percent of California's
24 high school graduates will be nonwhite.

25 This majority of students deserve and require
26 School Board Members who are committed to ensuring that their
27 educational needs are met, that their civil rights are advanced
28 and protected, and that their teachers are diverse and treated

1 fairly.

2 Regrettably, as detailed in the hundreds of
3 letters of opposition that have been generated against
4 Ms. Bergeson and which you have received, Ms. Bergeson's voting
5 record and positions so that she cannot fulfill these duties.

6 She has opposed minimum or adequate funding for
7 public education, including Governor Wilson's efforts to cut
8 \$2.3 billion for public education. She has opposed civil rights
9 for people of color, women, and the gay-lesbian and bisexual
10 community quite consistently. She has opposed full bilingual
11 education rights as shown by her consistent voting record
12 against the reauthorization of the Bilingual Education Act, and
13 she has consistently, as was noted before, opposed worker rights
14 and protections.

15 Her record shows that she will not represent or
16 understand the educational needs of the majority of California's
17 public school students and work force.

18 Those of us here today in opposition to
19 Ms. Bergeson's confirmation, and those of us who have sent you
20 letters, e-mails, faxes, and made phone calls, are not naive.
21 We know that it is unlikely that we've changed any of your
22 decisions to support Ms. Bergeson, even though many of you and
23 others in the Senate and in the Assembly voted against her
24 confirmation when she was nominated to become Superintendent of
25 Schools precisely for the record that has been cited today.

26 And while we are not naive, we do somehow also
27 believe that the appointment process in this state can and
28 should operate fairly and democratically, and that our elected

1 representatives should be advocates for the best interests of
2 their constituents.

3 We ask you today to vote as advocates for the
4 best interests of the poor, immigrant, language minority
5 children, and children of color in California, your constituents
6 and our collective future.

7 And we ask you to put aside any political deals
8 that were unfairly asked of you to make in back rooms or in
9 hallways to which these same children have no access.

10 We ask you to vote to oppose the confirmation of
11 Marian Bergeson.

12 CHAIRMAN BURTON: Next.

13 Thank you and good morning, honorable Members of
14 the Senate Rules Committee.

15 I'm Mary Hernandez. I'm the Vice President of
16 the San Francisco Board of Education. I'm a past president of
17 the Hispanic National Bar Association. And I'm a parent of two
18 young children in the public schools.

19 But I do not come here speaking just as a parent.
20 I come in all three, authorized to speak in all three
21 capacities, and I am here to speak in opposition to the
22 confirmation of Marian Bergeson to the State Board of
23 Education.

24 On August 10th, the San Francisco Board of
25 Education voted unanimously to oppose the nomination of Marian
26 Bergeson to the State Board of Education, and to strongly
27 recommend the appointment of Members who are reflective of the
28 ethnic diversity of the student population in this state, and

1 who are knowledgeable of and concerned for the educational needs
2 of all students.

3 Now, why did the San Francisco Board of Education
4 unanimously take this extraordinary action? Simply put, because
5 Marian Bergeson has a track record of being against practically
6 everything San Franciscans are for, and the State Board of
7 Education is too important in the lives of our children to be
8 silent on the confirmation of a position as important as this.

9 At a time when California's school system is
10 among the most underfunded in the country, the Senate's being
11 asked to confirm a person who has voted against public school
12 funding.

13 San Franciscans have always taken seriously their
14 legal and moral obligations to combat racism, sexism, other
15 forms of bias, and taken seriously their responsibility to
16 provide equal educational opportunity for all students.

17 Yet before you is a person with a poor track
18 record in this regard. I simply note, since it's been repeated
19 before and I will not repeat others before me, her vote on --
20 her opposition to affirmative action.

21 A significant issue not only for San Franciscans,
22 but for many throughout the state is equal opportunity and
23 equity for limited English speaking students. We want districts
24 to be held accountable for the academic progress of LEP
25 children, not just their ability to learn English, but their
26 academic progress in other core subject areas.

27 Yet recently on the State Board of Education,
28 Bergeson voted to gut critically important LEP regulations,

1 including uniform state guidelines on how limited English
2 speaking children are identified and how they may be
3 reclassified, making such accountability virtually impossible.

4 If every teacher in every classroom has the
5 ability to decide how they will classify and reclassify student,
6 how can we track their academic progress and hold them
7 accountable?

8 And I must add that before voting on this, a
9 number of experts appeared before her and the State Board, and a
10 number of community representatives, making passionate testimony
11 in opposition to this -- to this action. These are people who
12 would make excellent members of an advisory committee on this
13 issue. No one spoke in favor, and yet, she ignored all of that
14 testimony and voted to gut those regulations.

15 And I must add that that testimony also made it
16 clear that gutting these regulations was not at all required by
17 227, as 227 was silent on the issue of this type of
18 classification and reclassification.

19 She didn't have to take the action. She ignored
20 the testimony.

21 Now, I ask you, what basis is there to believe
22 that she's going to put together an advisory committee that's
23 meaningful, and what basis do we have to believe that she will
24 listen to them?

25 I must also add on this issue, there's previous
26 Board policy to exempt LEP children from testing in English for
27 30 months. She has made no attempt to address this issue,
28 notwithstanding the research, and, I must say, the basic common

1 sense that tells you that testing children in a language they do
2 not understand serves absolutely no useful purpose.

3 And I must tell you, I met earlier this week with
4 the Republican President of the State Board of Virginia, who,
5 based on research, informed me -- and I must say, my jaw
6 dropped -- that he was excluding LEP children from their
7 accountability testing for five years. He just said, that's
8 what the research said. How refreshing to find someone who
9 actually pays attention to the research and does do things on
10 the basis, not on politics, but on research.

11 The State Board of Education sets broad
12 parameters for what all California children are learning. As
13 part of their work, its Members have broad powers, broad powers,
14 to grant or deny waiver requests by districts, wide-ranging
15 appointment powers to committees and task forces that develop
16 frameworks, curriculums, standards, including content and
17 performance standards for English language learners -- for
18 English language development.

19 The State Board of Education makes determinations
20 on very significant items, like district re-organizations, in
21 which it is supposed to take into consideration impacts on
22 underserved children, which includes limited English speaking
23 children and minority children.

24 The decision you make today should not be taken
25 lightly. This is a very important position. And I do not view
26 this as a Republican/Democrat issue. Like most Latinos, I do
27 not believe that either party has a monopoly on good ideas, and
28 I certainly do not believe that either party has a monopoly on

1 bad ideas. Every one purports to place a high priority on
2 education. Both parties have indicated an interest in
3 establishing and maintaining good relations with the Latino
4 community.

5 I'm here to tell you that the Latino community
6 wants to be heard on this confirmation. Let me be clear. Most
7 of us in this room would have no trouble supporting the
8 nomination of a Republican candidate who has demonstrated the
9 ability to make decisions grounded not in politics but in
10 research, and who has demonstrated knowledge and sensitivity to
11 the needs of California's diverse student population, including
12 its limited English speaking and immigrant population.

13 Such a candidate, however, is not before you.
14 There is a reason that the Governor's nomination must be
15 confirmed by the Senate. This relates to the Senate's roll as a
16 check and balance against the executive branch. That roll is
17 critical today.

18 I ask each of you to oppose this nomination and
19 request a candidate with appropriate qualifications that a
20 plurality of Californians can actually support.

21 Thank you very much.

22 MS. PATRON: I'm sorry, my English is not
23 fluent.

24 [THROUGH INTERPRETOR, MIGUEL GARIBAY]

25 Good morning, Members of the Senate, the Rules
26 Committee. My name is Arcelia Patron. I'm a parent, and I have
27 three kids in San Jose Unified School District. I also
28 represent the Parents of the Migrant Program of which I am the

1 President, and also the Parents Club in Washington Elementary
2 School.

3 This morning we left our houses at 5:00 a.m. in
4 the morning with our kids to come over here and strongly oppose
5 Ms. Bergeson's nomination to the State Board of Education.

6 Based on the record of this lady, we consider
7 there is a great injustice for our kids if you recommend this
8 person to the Senate to be part of the State Board of
9 Education.

10 We believe as parents that she don't represent
11 the needs of the 1,004,000 kids of limited English in our public
12 schools in California.

13 We want the best for our kids, and we are sure
14 that you also want the best for your kids. In this case,
15 Ms. Bergeson, she's not the best option, for she represents the
16 best for our kids. She has been against our kids, our immigrant
17 kids, the color kids, and also against the civil rights.

18 We as parents are opposed to Ms. Bergeson's
19 nomination, and we ask you to also oppose her nomination to the
20 State Board of Education.

21 CHAIRMAN BURTON: Thank you.

22 MR. ESQUIVEL: Good morning. My name is Rich
23 Esquivel. I'm a 27-year volunteer in the Sacramento City School
24 District and Elk Grove School District. I'm also a co-founder
25 of a Chicano mentoring group in Sacramento by the name of John
26 Kennedy Mecha, Parents Advisory Committee. I'm an alumnus of UC
27 Davis, and I'm here to oppose the confirmation of Marian
28 Bergeson.

1 I represent one of over 30 groups that signed a
2 letter to state leaders on April 22nd with regards to
3 Ms. Bergeson.

4 Quite frankly, we don't contest the fact that she
5 has been a very able Legislator.

6 What we contest is the fact that she represents
7 much of what is wrong with the educational system in California
8 today, and that is a policy of exclusion to people of color.

9 As a person who's been active for over 30 years
10 in the school systems as a volunteer, we have the spin and we
11 have the reality. We talk with inclusion, yet we have a policy
12 of exclusion. And it really doesn't matter whether you come
13 from the Republican side or Democratic side.

14 The Governor has promised us that education,
15 education, education will be his priority. And I suggest to you
16 that when you have racism, racism, racism, whether it's subtle
17 or overt, it still represents exclusionary policies to this rich
18 and diverse state.

19 What we are asking you merely to vote on today is
20 the opportunity to have a State Board of Education which
21 provides us, the people of California, with a culturally diverse
22 group of people that actually want to include all of us in the
23 opportunity to have an education. We have a right to that
24 process. We're good citizens. We're taxpayers.

25 We have people here today that can't speak
26 English very well that are just as concerned as you were when
27 you sent your kids off to school.

28 My daughter is a recent graduate of UC Santa

1 Cruz, but I have worked very hard to see that her peers,
2 regardless of their socio-economic and ethnic backgrounds, also
3 have the opportunity.

4 The reality is that we talk about inclusion, but
5 we have too many Legislators who really haven't visited the
6 schools. If you want to go to a good school, go to one in
7 Ms. Bergeson's district. It's in Orange County. It's in one of
8 the highest crime rates. It's run by an administrator by the
9 name of Nadine Rodriguez. It's almost 100 percent Chicano.
10 They have high expectations. They actually do engage the
11 parents. They follow the state law. When the state says,
12 engage those parents and provide them with notices and the
13 language, when there's 15 percent or more of the people, they
14 actually follow the law.

15 There are so many school districts in this state
16 that do not comply with law. There is no accountability in
17 education, my opinion, in California. That's the travesty.

18 I represent one of 30 groups that has asked the
19 Governor for the opportunity to provide all of us with an
20 opportunity, to have participation in our society. That's our
21 fundamental right. That is our fundamental right.

22 And let me assure you, when we supported the
23 Democratic Party back in November of '96 by doing phone banks to
24 help Democratic candidates win election, we were told that we
25 would be part of the process.

26 It really doesn't come down to whether you're a
27 Democrat or you're a Republican. It comes down to what is fair
28 for all the people. The people of California are rich and

1 diverse, and we understand. We are not naive to what the
2 process is.

3 I would like to welcome these children here today
4 because they need to see what the process is.

5 What we're asking for -- and I'm almost 50 years
6 old -- is inclusion. If you want people that have spent 50
7 years as educators in this system, or 50 years in the
8 Legislature, then look at the failures of our educational
9 system. We are not educating our children. We have too many
10 dropouts.

11 We are asking you for the right to participate in
12 a system that we helped pay for, from the University of
13 California on down through to I.

14 And I thank you very much for your time.

15 MS. ORTIZ: Hi. Good morning. I'm sorry for my
16 English. I hope that you can understand me.

17 My name is Rosie Ortiz. I'm a mother, and I come
18 from San Jose. I'm the President of the City Council of
19 Washington School in San Francisco District.

20 We left very early this morning from our homes to
21 come here with the hope to be listened and to have the power of
22 influence in your decisions with respect to the nomination of
23 Ms. Bergeson to the direct Board of Education.

24 [THROUGH INTERPRETOR, MIGUEL GARIBAY]

25 Ms. Bergeson has demonstrated during her time as
26 a Legislator and Member of the State Board of Education that she
27 has been against the kids who more need help, and I mean the
28 limited English kids and also the immigrant kids.

1 We as the parents, we can tolerate all the
2 attacks against us, also the things that they can deny us in
3 services, but not to our kids. I mean, they are not responsible
4 because we are immigrants or because we don't speak the language
5 that people in California speak; I mean the English.

6 Ms. Bergeson an enemy of our kids, and also she
7 is an enemy of the immigrants and also the minorities. She's
8 also an enemy of the civil rights. That's why we oppose her
9 nomination to the State Board.

10 We ask you to please don't recommend Ms. Bergeson
11 to the State Board of Education. The State Board of Education
12 is very important, and they're the ones that care of the
13 education of our kids. A group like this cannot have a person
14 like Ms. Bergeson. If a group like this cannot have someone
15 like Ms. Bergeson, because she don't really represent the needs
16 of the 1 million kids of California.

17 MS. ORTIZ: Thank you.

18 CHAIRMAN BURTON: Thank you.

19 MS. DIAZ: Good morning. My name is Martha
20 Diaz, and I'm here representing the California Association for
21 Bilingual Education, as well as the Californians Together for a
22 Quality Education, which is a coalition group comprised of civil
23 rights and advocates for bilingual education.

24 We are here, or I'm here opposing Ms. Bergeson's
25 confirmation to the State Board of Education, basically based
26 upon her record and her support of vouchers and Opportunity
27 Scholarships, and which includes also her opposition to
28 affirmative action.

1 I would just like to make a point of
2 clarification in regards to the Title 5 regs. It should be
3 noted that the Department of the Education legal counsel also
4 opposed the passage of those Title 5 regulations. That that
5 opinion was ignored, as well as another attorney opinion that
6 was brought before the State Boards in regards to the Title 5
7 regulations. And we feel that at that point, any Member of the
8 Board could have requested more information of those individuals
9 present, but did not, and that included Senator Bergeson.

10 Thank you.

11 MS. GUILLEN: Good morning. My name is Elizabeth
12 Guillen. I'm here on behalf Mexican American Legal Defense and
13 Educational Fund.

14 We believe that Ms. Bergeson's record in the area
15 of civil rights and educational equity is important, that the
16 position she has taken individually should not be ignored, and
17 those things taken together make up a record that demonstrates
18 she should not be confirmed to the State Board of Education.

19 We urge your opposition to her confirmation.

20 Thank you.

21 SENATOR LEWIS: Question of the representative
22 from MALDEF.

23 MS. GUILLEN: Yes, sir.

24 SENATOR LEWIS: Thank you.

25 I received some correspondence from you that
26 listed a long litany of different legislation and reasons why
27 your organization opposes the confirmation.

28 MS. GUILLEN: Yes.

1 SENATOR LEWIS: One of the reasons was the
2 nominee's opposition to certain so-called gay rights
3 legislation?

4 MS. GUILLEN: Yes.

5 SENATOR LEWIS: Just in the interest of
6 consistency, I wanted to ask you, would your organization oppose
7 as matter of record, let's say, State Legislators that might be
8 running for higher office, like Congress, for example, that
9 opposed gay rights legislation?

10 MS. GUILLEN: I don't understand the question.
11 Do we oppose Legislators?

12 SENATOR LEWIS: You have a long list of
13 legislation here, and you're asking us to deny her confirmation
14 because she supported that legislation.

15 I'm asking you if your organization is
16 consistent. If there was a State Legislator, for example, that
17 ran for higher office, and let's just say Congress, for example,
18 who had a record of opposing that same legislation, would you
19 oppose his or her election to higher office as well?

20 MS. GUILLEN: Not necessarily. I think we
21 take -- we try to be consistent in looking at the larger
22 record, not individual -- not individual positions. We think
23 the larger record, or the individual positions, taken together,
24 make up a good enough larger record.

25 SENATOR LEWIS: So you kind of make it up as it
26 goes.

27 CHAIRMAN BURTON: You look --

28 MS. GUILLEN: The record is quite long. It's not

1 a making it up as it goes opportunity here. We've got plenty of
2 opportunity.

3 CHAIRMAN BURTON: You take the record as a whole,
4 and the pieces make up the whole.

5 MS. GUILLEN: Absolutely.

6 Thank very much for the opportunity to answer.

7 CHAIRMAN BURTON: Sir.

8 MR. MUÑOZ: Good morning, honorable Senators. My
9 name is Carlos Muñoz.

10 I had two daughters. One 3rd grade, and the
11 other in 1st grade. And it's so sad to see my daughters having
12 a very good education, fairly good education before now, now are
13 failing and falling way behind.

14 I represent also the Comite pro Educacion. It's
15 a parents organization Pittsburgh. We are about 100 to 200
16 parents.

17 And it's really, really frustrating to see our
18 children failing. We are trying to get as much help as we can
19 from the district, and we are not able to get it. This is go
20 all the way up to the way the education is being handled.

21 I don't want to criticize, but it's really bad.
22 We follow the whole procedure from the bottom to the top, and we
23 were looking for a way to have improvement in our children's
24 education. What we see when we ask how that can happen, one of
25 our hope was that maybe if the assessment is different, maybe if
26 the way the children are categorized is different.

27 And now happen that Ms. Bergeson is against that
28 kind of assessment process. It's very unfortunate. That's why

1 we really oppose her nomination.

2 We all kinds of serious problems. People, it's
3 unbelieveable.

4 I think the education should be a loving
5 experience, an experience where the political should be put
6 aside, an experience where love should be the main feeling, the
7 main emotion between the parents and schools and the school
8 boards. That is not happening at all.

9 I am telling you because I've seen all these
10 parents frustrated, and I see the way the district is being
11 handled. And I say, how these things going to change?

12 And I hope that you, with all my respect, you
13 will have the power to make the changes to have real educators
14 in charge of our children's education. No other way.

15 We have file complaints for discrimination with
16 OCR and the Department of Education in California for nine
17 discrimination problems. OCR came to our place and they found
18 more than nine; they find eleven.

19 And the district, they laugh at us. They don't
20 care. They don't really care.

21 I say, who got the power to make these changes?
22 The school board from Sacramento.

23 What I see here is this confirmation, it's not
24 helping. It's not helping today.

25 What we need is really, really educators in our
26 schools, people who will do it for the love of education.

27 I think my daughters, like the daughters of all
28 the millions of Californians, I think the future is in our

1 children. And I think the future of this state and the whole
2 country is in our children, too.

3 So, that's why I ask you to oppose the
4 confirmation and please support a educator.

5 Thank you.

6 MS. WEI: Angie Wei on behalf of Board of
7 Directors for Chinese for Affirmative action in San Francisco.

8 We respectfully oppose this nomination and urge
9 your no vote.

10 Thank you.

11 CHAIRMAN BURTON: Thank you.

12 MS. SANTOS: My name is Mrs. Lori Santos. Good
13 morning.

14 I'm a parent of two in the Sacramento City
15 Unified School District. I am a member of the California
16 Association of Bilingual Educators. I'm serving as Secretary of
17 the local chapter here of the League of United Latin American
18 Citizens. I'm a member of the National Coalition of Hispanic
19 Organization who was directed by my mentor, Mr. Mario Obledo,
20 and hero. I am also the President of the National Coalition for
21 Better Education, which is why I'm here this morning.

22 We are specifically concerned about the language
23 minority as well as students of color here in California, and
24 particularly within the Sacramento City Unified School District.
25 I'm in possession of documentation from the Federal Department
26 of Education in Washington, DC, concerning investigations into
27 SCUSD, as well as concern about the lack of accountability from
28 our own California Department of Education.

1 I'm the spokesperson For CDE File 394, which
2 coincidentally addresses the charter school, and addresses
3 misappropriation, misallocation, and misuse of Title 1 and
4 multi-lingual monies, three years and still running,
5 accountability.

6 Ms. Bergeson's voting record clearly shows a
7 trend of consistently voting against legislative efforts to
8 address the needs of language minority students.

9 Ms. Bergeson's record of voting on civil rights
10 issues are equally discouraging. She has repeatedly voted
11 against bills that would expand and strengthen the civil rights
12 protections for California residents. SB 2150 is just one
13 example.

14 It is our belief the California State Board of
15 Education should demonstrate the ethnic diversity of our state,
16 and should be knowledgeable as well as concerned for the
17 educational needs of all students, not selected few.

18 As a Wilson appointee, Ms. Bergeson is out of the
19 cultural loop and does not appear to be knowledgeable to the
20 educational needs of our immigrant student population throughout
21 the state.

22 The educational future of all students must not
23 be allowed to continue to rest in the hands of a Board that does
24 not reflect the views and concerns of our community. We
25 strongly urge you to not confirm Marian Bergeson.

26 Thank you.

27 MS. ESCOBEDO: My name is Deborah Escobedo, and
28 I'm an attorney with Multicultural Education, Training, and

1 Advocacy, and I will be very brief.

2 I'm here on behalf of my organization and on
3 behalf of Parents for Unity to oppose from Los Angeles, an
4 immigrant parent group from Los Angeles, to oppose the
5 nomination of Marian Bergeson.

6 Just for the record, I'd like to submit a brief
7 that we submitted to the State Board of Education concerning the
8 LEP regulations issues. It was submitted on behalf of
9 California Latino Civil Rights Network statewide, Chinese for
10 Affirmative Action, San Francisco, Coalicion Unidos por la
11 Educacion de Nuestros Ninos, Oceanside, Comite Civico del Valle,
12 Imperial Valley, The Educational Empowerment Program of Central
13 Legal de La Raza in Oakland, Frente Indigina Oaxaqueño
14 Binacional out of Fresno, the Latina, Latino Indigenous Unity
15 Coalition of San Diego County, the League of United Latin
16 American Citizens, LULAC, statewide, Mujeres Unidas y Activas of
17 San Francisco, Parents for Unity out of Los Angeles, and the San
18 Diego Chicano Federation out of San Diego.

19 I just want to submit this for the record, too.
20 It lays out our positions concerning the regulations.

21 Finally, I'd also like to submit to the record a
22 letter that was given to Davis and, I believe, Senator Burton, a
23 copy was also sent to you at the time, dated April 22nd, 1999,
24 which also overwhelmingly -- representing over 30 Latino
25 statewide organizations and leaders throughout the state,
26 expressing their opposition to Marian Bergeson and to what the
27 Board of Education did with respect to these regulations.

28 I also would like the record to reflect that

1 Governor Davis has never responded to this letter. And we have
2 asked to meet with him on this issue way back when. We've never
3 gotten a response.

4 Maybe one thing that could come out of this
5 hearing that might be positive with respect to our community is,
6 perhaps, the respectful Senators on this Committee might suggest
7 to Governor Davis that he might want to meet with the Latino
8 community when they ask him to meet with them.

9 Thank you very much.

10 I'd also like to submits this for the record.

11 CHAIRMAN BURTON: I'm having trouble getting him
12 to meet with Senators.

13 Yes, sir.

14 MR. ZAMORA: Good morning. My name is Leobardo
15 Zamora.

16 I'm a concerned parent. I'm concerned for my
17 children. One is going into the 4th grade and another one is in
18 high school.

19 They are suffering the lack of vision and
20 sensitivity of Ms. Bergeson's action.

21 I have analyzed Ms. Bergeson's voting record for
22 many years, and it reflects that -- it clearly reflects that
23 she's anti-labor, anti-Latino, anti-immigrant, and she's
24 certainly not concerned for the educational welfare of all
25 children, as she states.

26 In the Pittsburgh Unified School District where
27 my children attend, we are -- it's in complete chaos simply
28 because we do not have clear directives from the Board of

1 Education with regards to assessment of children, with regards
2 to the changes that are being implemented. We do not have any
3 directives from them. And consequently, the Pittsburgh Unified
4 School District did not have a functional educational program
5 for my children.

6 The program that they implemented did not give
7 them meaningful access to the core curriculum, and as a
8 consequence, my children are falling farther and farther behind.
9 And this is the reason why I'm here, and this is why I am
10 against Ms. Bergeson's confirmation.

11 Thank you.

12 MR. LOPEZ: Good morning. Ben Lopez, California
13 Rural Legal Assistance.

14 I think it's all pretty much been said. I'm
15 mostly here as a parent. My son is in an immersion program.
16 The school is actively trying to take it apart because of the
17 actions of the State Board of Education on Title 5, which they
18 misinterpreted, misconstrued.

19 The other thing that I can offer you is that for
20 the past 15 years, Sierra Ley, which represents the rural poor,
21 Migrants, and farmworkers, for the past 15 years I've been here,
22 and we have sponsored and written and drafted 95 percent of the
23 legislation on bilingual education, migrant education, and
24 categorical programs. I have followed this record closely. It
25 is part of my life. There's no circumventing the truth to me.

26 I personally like her as a person. I think she's
27 charming; I think she's intelligent.

28 But I think there are better candidates.

1 Thank you very much.

2 CHAIRMAN BURTON: Senator Hart, I would hope
3 that you would bring back the message to the Governor that after
4 the session is over, and probably after he goes through that
5 bill signing stuff -- that will be a headache -- that he should
6 respond to the letter of April 27th and have a meeting with the
7 parents with concerns and community leaders.

8 And I know you can't do anything but inform him
9 of that, but we will also, the Committee will send him a letter
10 just calling his attention to it. But I do think that that
11 meeting and what could come out of there, with all respect,
12 could be much more important than what will come out of here.

13 Senator Bergeson, would you like to come up and
14 briefly respond to comments?

15 MS. BERGESON: Thank you very much.

16 I really have very little to say at this point.

17 I would like to thank those that were here and
18 spoke on my behalf. I very much appreciate their support. It
19 means a great deal to me.

20 I listened intently to the opposition. Where I
21 disagree with much of what was said, but there is one thing
22 that's very clear. I think we need to do a much better job of
23 communicating.

24 I think the interests that I have shared, and
25 certainly share with the Board, is that we do the best for our
26 children. I think that those are exactly the aims, the goals
27 that we are currently undertaking.

28 I think we have a tremendous responsibility to

1 see that every child is given the opportunity, and I tried to
2 make that very clear in my opening remarks, that the effort must
3 be ours to make certain that every one feels wanted and needed
4 and caring. And I think that people individually can do that.

5 And I will do everything in my power, if
6 confirmed, to carry forward the message that every child counts,
7 every child must be respected, and every child must have those
8 expectations that they can succeed, and they will find the
9 future in California that will be meaningful and productive for
10 all of us.

11 I thank you very much for the opportunity to
12 appear before you.

13 CHAIRMAN BURTON: I would hope that you bring
14 back to the Board the feelings and the comments that were made
15 here.

16 And whether you agree with, I guess, the
17 description of your position on some basic things or not, it's a
18 reflection of a deeply held concern about problems in the school
19 system, and especially for those who are English learners.

20 I would say that if you'd never been on the Board
21 of Education in your life, if you'd never been in the State
22 Senate or Assembly in your life, the schools would still be as
23 screwed up today, or maybe even more screwed up, than they are
24 now.

25 So, it's not one person that does this, but I
26 would hope that you would take your experience at this hearing
27 and the feelings of these individuals that represent a very
28 broad concern that the Board of Education has got to be, I

1 think, more aggressive and more assertive in dealing with these
2 real problems.

3 Senator Lewis moves the nomination. Call the
4 roll.

5 SECRETARY WEBB: Senator Baca.

6 SENATOR BACA: I'd like to state the reason I'm
7 going to vote no.

8 Marian Bergeson, you have an excellent
9 personality. I do agree with you in terms of the communication
10 that needs to be done.

11 But your overall record, voting record, does not
12 merit the approval to meet the 21st Century, the diversity of
13 all 6 million students of California.

14 That's why I cast a No vote.

15 SECRETARY WEBB: Baca No. Senator Hughes.

16 SENATOR HUGHES: Aye.

17 SECRETARY WEBB: Hughes Aye. Senator Knight.

18 SENATOR KNIGHT: Aye.

19 SECRETARY WEBB: Knight Aye. Senator Lewis.

20 SENATOR LEWIS: Aye.

21 SECRETARY WEBB: Lewis Aye. Senator Burton.

22 CHAIRMAN BURTON: Aye.

23 SECRETARY WEBB: Burton Aye. Four to one.

24 CHAIRMAN BURTON: Congratulations.

25 Next, we'll get Susan Hammer up and down quick
26 before she passes out from jet lag. State Board of Education,
27 Susan Hammer, welcome. We know that you just got off a plane
28 from -- has San Jose got a sister city in Barcelona?

1 MS. HAMMER: I wish we did. It's a lovely place.
2 From South Africa, actually. I was in Botswana.

3 Thank you very much, Senator Burton and Members
4 of the Rules Committee. I really appreciate the opportunity to
5 appear before you as I seek confirmation for the State Board of
6 Education.

7 As we all know, there is no single issue more
8 important to the future of our kids, and therefore to the future
9 of this state than to restore California as the leader in
10 progressive public school education, and thereby restoring the
11 public's confidence at the same time.

12 This requires the Governor, his Secretary of
13 Education, the Legislature, the Superintendent of Public
14 Instruction, and the Board of Education to work together to
15 ensure that our standards are demanding, that our assessments
16 are consistent with the standards, and that all of us with
17 responsibility for public education are held accountable.

18 As you all know, local government in this state
19 has no mandated responsibility for educating our children.
20 However, during my eight-year tenure as Mayor of San Jose, I
21 made education my number one priority. Working with community
22 groups and schools, I committed a million-and-a-half dollars
23 from the City's general fund to establish after-school homework
24 study centers throughout the city. These study centers have
25 become a model for other communities.

26 I also budgeted a million dollars to develop the
27 San Jose Education Network, which in turn leveraged millions of
28 dollars from the private sector and countless volunteer hours to

1 virtually every K through 12 classroom in San Jose. We also
2 included an extensive teacher training component to that
3 program.

4 Our program was well under way before the first
5 Net Day, I'm proud to say.

6 There are many other programs I initiated to
7 address the needs of our young people with the assistance from
8 my superintendent's Round Table, with whom I met regularly. I
9 will not take your time to go into those today, but the goal
10 was, of course, to address the needs of our young people, and to
11 help them be successful students.

12 Let me close by saying that I'm a product of
13 California's public school system, from kindergarten through my
14 graduation from UC Berkeley. Our three children attended public
15 schools in San Jose, as did their father.

16 I want kids today, all kids, to have the same
17 opportunities we had. To that end, I ask your support for my
18 confirmation. I'm eager to be a part of Governor Davis' team as
19 we prepare our kids for the 21st Century, and as we return
20 California to its rightful place as the leader in public school
21 education.

22 Thank you.

23 SENATOR LEWIS: Thank you very much.

24 Senator Hughes for a question.

25 SENATOR HUGHES: Welcome back.

26 MS. HAMMER: Thank you, Senator Hughes.

27 SENATOR HUGHES: The State Department of
28 Education recently released some data showing that 67.2 percent

1 of our state's students are graduating from high school, and we
2 have a high dropout rate.

3 What should your Board be doing about this? What
4 kind of leadership do you plan on giving us in this area?

5 MS. HAMMER: Well, you know, I don't know if I'm
6 exactly sure what the Board of Education's role is in that.

7 I can only tell you from my experience as Mayor
8 and through an effort that I started in San Jose, called the
9 Mayor's Gang Prevention Task Force, we worked very closely with
10 the schools and the county to establish a truancy continuum
11 program, working with individual schools to develop programs
12 that would keep kids in school. And that program has been under
13 way a couple of years.

14 And I haven't seen any statistics. I guess my
15 point is, as to how effective it's been, my point is that I
16 think that there are ways at a local level to deal with that.
17 And, you know whether there has to be some legislation, as I
18 say, I don't know.

19 But I think the Board should do whatever we can
20 to encourage the kind of programs that go on locally, not just
21 in the community that I'm familiar with, but around the state.

22 SENATOR HUGHES: What do you think you could do
23 as a Board? You're not a local school board; you're not a local
24 city council. You're not a local legislator.

25 What can your Board -- I mean, you sit as the
26 Board in the Sky as far as the state is concerned. What can
27 your Board do dramatically to make the difference, to motivate
28 those other people who are on line?

1 MS. HAMMER: Well, I think that, you know, as
2 being a statewide Board, we certainly can be -- we have the
3 Bully Pulpit, if you will, to bring attention to what I think
4 are really disastrous numbers. And if there are tools that
5 local communities need, local schools need, to keep their kids
6 in school, I think we have a responsibility to respond to
7 those -- to those needs and, you know, enable them to do so it.

8 But again, you know, I think it's something that
9 really has to be done at a local level. Every community's
10 different, which means every community has different challenges
11 and problems.

12 And I think, you know, to look at programs that
13 are working is something that maybe we should be doing as a
14 Board, and making sure that there are the resources to implement
15 the good programs that are going on around the state in a
16 broader perspective.

17 SENATOR HUGHES: What do you feel your Board
18 should be doing about safe schools? We have been passing
19 legislation. We've been sending it to the Governor. He's been
20 signing it.

21 I've been in the safe schools business for a long
22 time. And yet and still, we don't have safe schools, as was
23 indicated in the Los Angeles area recently.

24 What do we do about hate crimes in the classroom?
25 What do we do about hate crimes not all over our nation, but
26 specifically within our state? What kind of leadership are you
27 going to give as a School Board Member?

28 MS. HAMMER: Well, Senator Hughes, it's my

1 understanding that actually schools are, although there've been
2 some terrible incidents recently, and apparently the case in Los
3 Angeles -- I only heard about when I got back into the country
4 yesterday, having been gone for three weeks -- but it was a
5 horrible incident.

6 Our schools are pretty darn safe, you know,
7 putting aside the incidents like Los Angeles and Colorado.
8 Again, you know, based on my experience -- and let me just say
9 that this morning about 3:00 o'clock, not being able to sleep
10 because I guess my body was still on a different time schedule,
11 I was going back through the back newspapers, and I saw that the
12 Attorney General had a press conference, apparently, and is
13 going to commit a lot of resources that he has to addressing the
14 hate crime issue, which has increased, I think, around the
15 state.

16 But locally, again, based on my experience, we
17 had developed a safe school and a zero tolerance program in San
18 Jose and other school districts in Santa Clara County where, if
19 a student is caught, brings a weapon on campus, whether it's a
20 gun or a knife, or something else that can do bodily harm, he or
21 she and his parent or parents have to go to a prescribed program
22 that's ordered by the juvenile court judge. And again, it
23 involves the parents. This program has been effective. Kids --
24 I think it's several weeks for like a couple, three hours on a
25 Saturday morning.

26 You know, I guess this is something again that
27 has to be done locally, and I can't directly -- I don't know
28 what the Board's role is in that.

1 SENATOR HUGHES: Thank you.

2 SENATOR LEWIS: Senator Baca.

3 SENATOR BACA: Susan, just a couple of quick
4 questions.

5 In reference to the dropout rate right now, it's
6 quite high, and it'll probably end up being higher.

7 How do you intend to address the dropout rates,
8 or recommendations? Have you thought about that?

9 MS. HAMMER: No, you know, quite honestly, I
10 haven't.

11 Again, one of the things that I'm familiar with
12 is the way that the schools can involve parents through --
13 there's a wonderful thing called -- I think it's called the
14 Parent Institute that does -- works in communities, at least in
15 San Jose. I think we had like the second program in California.

16 It was started in Southern California, where
17 parents and especially in minority -- schools With heavy
18 minority populations have high dropout rates, and to make
19 the parents -- teach the parents to become more involved in
20 their kids' education. And, you know, I think that that's
21 something that is very, very necessary, and, you know, become a
22 part of their kids' lives in their school experience.

23 There's a prescribed program that they go
24 through. I think that's an example of something that can help
25 the dropout rate. You know, I think a lot of kids feel that the
26 schools --

27 SENATOR BACA: Susan, that's one area that,
28 hopefully, you can look at in terms of the future, because I

1 think that we're going to see a high dropout rate.

2 As we look at that, look at how we might work not
3 only with continuation schools with parental involvement, or
4 other programs, but maybe look at developing some kind of a
5 master plan that will address the dropout rates, too, as well.
6 Hopefully you'll look at that.

7 MS. HAMMER: Sure, be happy to.

8 SENATOR BACA: The other question I have is, we
9 work to assure that various state assessments tests -- the STAR,
10 the high school, the exit exam, and the matrix test -- work
11 together.

12 MS. HAMMER: Absolutely. In fact, I have met
13 with the 33, or a good number of the 33 superintendents in Santa
14 Clara County several months ago, and that was one of the things,
15 issues, that they were most concerned with. And I share their
16 concern.

17 SENATOR BACA: Thank you.

18 MS. HAMMER: I think that testing and assessment
19 needs a lot of work in California.

20 SENATOR BACA: Move the nomination.

21 SENATOR LEWIS: I understand that you were
22 recently named CEO of the Synopsis Corporation in Silicon
23 Valley, Science and Technology Championship?

24 MS. HAMMER: Yes.

25 SENATOR LEWIS: Something I'm really not familiar
26 with, not being from your part of the state is, in that
27 capacity, is that a volunteer position, or are you receiving
28 compensation?

1 MS. HAMMER: I'm going to receive compensation.
2 It's part-time. It's a nonprofit that was formed by Synopsis,
3 and one of the co-founders of Synopsis, and I will be
4 compensated for my time.

5 SENATOR LEWIS: As CEO of this, what will your
6 principle responsibilities be?

7 MS. HAMMER: To expand the Science Challenge and
8 Championship that has been going in our county for over 30
9 years. The idea is to make it a year-around program, and have a
10 very aggressive teacher training program, among other things,
11 and to make sure that as many high school students who want to
12 participate have the opportunity to do so.

13 And that is, quite naturally, going to take some
14 additional funds, over and above what Synopsis has committed
15 over next three years, which is \$3 million. So, part of my
16 responsibilities will be to raise dollars in Silicon Valley to
17 support this.

18 And there are many facets of it. I mean, teacher
19 release time, and getting a master teacher to work with a
20 variety or with a number of teachers in a school or in a school
21 district, and you know, on and on.

22 SENATOR LEWIS: I'm not going to be so crass to
23 ask you what your salary is. Can I ask you, though --

24 MS. HAMMER: I have not signed an employment
25 agreement yet, and I intend to do it --

26 SENATOR LEWIS: Is it possible that as part of
27 that employment agreement, would you be receiving any
28 fundraising commissions, or anything along those lines?

1 MS. HAMMER: No, absolutely not.

2 SENATOR LEWIS: Is there any kind of a potential
3 for a conflict of interest here?

4 MS. HAMMER: You know, that's an interesting
5 question, and I don't know.

6 Right after this was announced, or soon after it
7 was announced, I left the country for several weeks. So, what I
8 want to do is have an opportunity to talk to the Board's legal
9 counsel.

10 I was one of the principal proponents of a very
11 strict conflicts of interest codes when I was on the City
12 Council. And then for the eight years as Mayor, I have lived
13 under a very stringent conflict of interest code. I believe
14 that they are useful and should be adhered to.

15 If there's any questions, there's the FPPC, too,
16 who issues rulings on that.

17 So, I'm cognizant of it, and I appreciate the
18 fact that you raise that as an issue.

19 SENATOR LEWIS: Suffice it to say that in your
20 fundraising activity, you certainly wouldn't be raising funds
21 from anybody that might have any state contracts.

22 MS. HAMMER: Absolutely not.

23 SENATOR LEWIS: At this point in time, let's ask
24 if there's anyone here that feels compelled to come forward and
25 provide testimony in support?

26 Anyone here that wishes to testify in opposition
27 or raise concerns?

28 We previously had a motion from Senator Baca.

1 Please call the roll.

2 SECRETARY WEBB: Senator Hughes.

3 SENATOR HUGHES: Aye.

4 SECRETARY WEBB: Hughes Aye. Senator Knight.

5 SENATOR KNIGHT: Aye.

6 SECRETARY WEBB: Knight Aye. Senator Lewis.

7 SENATOR LEWIS: Aye.

8 SECRETARY WEBB: Lewis Aye.

9 SENATOR LEWIS: We'll place that on call so the
10 other Members may be recorded.

11 MS. HAMMER: Thank you very much.

12 SENATOR LEWIS: Congratulations.

13 SENATOR LEWIS: Welcome to the Committee.

14 MR. JENKINS: Good morning, good afternoon
15 almost.

16 I want to thank you for this opportunity to
17 hopefully move forward with a confirmation that I've looked
18 forward to for the last five or six months, having done the
19 work.

20 You've read my background, so I'll be brief
21 relative to my opening comments.

22 I am a career banker, a father of three, resident
23 of South Central Los Angeles where I was born and continue to
24 live. I've spent the last 12 years of my life as the Chairman,
25 Founder, President, CEO of the largest African-American owned
26 commercial bank in the state, a bank that's been focused
27 exclusively on ensuring that there's been equal access to
28 financial services and products in communities that have

1 historically been ignored all up and down this state.

2 And it is with that same interest in inclusion,
3 in providing equal access, that I accepted the assignment with
4 the nomination from the Governor to serve as a Member of the
5 State Board of Education.

6 What my background doesn't say is that my family
7 has been involved in education most of my life. We, as a
8 family business, have run day care centers in South Central Los
9 Angeles. At any given point in time, we have had upwards of a
10 thousand kids under our responsibility. Today that number is
11 the about 1200. We start as infants, six months, and continue
12 to grades three and four. So, it has been a part of my life for
13 the last 20 years. And I have seen the direct result of what a
14 good educational environment can do for our children.

15 As a banker in the community and a business
16 owner, I've been on the other side of that, where we have gone
17 out of our way to attempt to engage and bring into our
18 profession young people who come out of the school systems in
19 Los Angeles, and in the capacity of very basic banking
20 employees, tellers and clerical personnel. We have, on
21 occasion, had to create our own tutelage programs to teach them
22 basic reading and writing just because they are simply unable to
23 compete.

24 With that in mind, it makes the task here that
25 much more important, and validates for me the need to be
26 vigilant in what we do.

27 I simply am excited about the opportunity. I
28 believe that I bring a perspective of someone who is in a

1 community, who is engaged in that community, who can understand
2 and create for this Board the nexus between the economic issues
3 that confront parents in that community, and the realities of a
4 school system and their need to be focused on the educational
5 opportunities for their children.

6 I think it is that that the Governor saw in me in
7 terms of being able to bring this completely into a full circle
8 for those people who simply don't have the perspective and can't
9 truly understand the plight of some of the folks, even those who
10 were here, in some cases, this morning.

11 So with that in mind, I accept this challenge
12 gratefully. I intend to give it as much energy and time as I
13 can. And Lord knows, it is a time-consuming job, as I've come
14 to find. But I think in the short five or six months that we've
15 been at it, I've the level of discourse raised. The debate has
16 become much more significant, and I think the degree to which we
17 are trying to be broader in our perspective is something I'm
18 proud of, even in six months.

19 So with that, I simply want to say thank you for
20 the opportunity, and I commit to you that I will be as vigilant
21 in this assignment as I have been in the context of delivering
22 financial services to people who have been unengaged for the
23 last 12 years of my life.

24 CHAIRMAN BURTON: Thank you.

25 Senator Hughes.

26 SENATOR HUGHES: Good morning, Mr. Jenkins.

27 MR. JENKINS: Good morning.

28 Do you feel, as you have served now for a very

1 short time on the Board, do you feel that there's any conflict
2 between the authority of the State Board and the Superintendent
3 of Public Instruction?

4 MR. JENKINS: Well, that's the age-old question
5 of governance. I, too, have heard and read the debate, and even
6 read the history with respect to how and why the configuration
7 and paradox exists today.

8 I've got to tell you, I have not seen, and it may
9 be because, I think, certainly the new nominees and the old
10 nominees, and even, I think, the Superintendent, have taken a
11 step backwards in the sense that we've looked at this as an
12 opportunity to move forward collectively.

13 I have not seen the level of discord that I'm
14 told has existed previously. The level of accessibility, the
15 willingness on the part of staff to be, perhaps, broader in the
16 flow of information to the new Board Members.

17 Frankly, I believe we're off to a very good
18 start. I like what I have seen.

19 What we've said to them is, if you can provide us
20 with a balanced look at an issue, you will get in response a
21 very balanced and honest approach in the answer to a question or
22 an issue. And I think, so far so good.

23 I understand that this is an age-old question,
24 and one that will continue to go plague us. And I understand
25 that if there is a time to look at it, it is now, given the
26 configuration of the Legislature, and the Governor, and all of
27 that.

28 But for the moment, I have found it to be an

1 increasingly pleasurable experience in the context of the
2 willingness of staff to work with us. And frankly, I think
3 they've, again, seen in us a genuine lack of predisposition, but
4 a willingness to engage the issue, and to look at it as broadly
5 as we possibly can.

6 SENATOR HUGHES: Since your family is in the
7 business of education too, and you're well known in our
8 community, your family is, and admired, how do you feel about
9 the voucher system? What stance do you take?

10 MR. JENKINS: Let me answer it this way.

11 My youngest daughter is ten years old, and as a
12 consequence of this assignment, she will begin her 6th grade in
13 LAUSD. She starts in three weeks. I am --

14 SENATOR HUGHES: What school is she going to?

15 MR. JENKINS: The Los Angeles Center for
16 Educational Studies, it's a magnet school. And that's having to
17 take her out of our own school system to put her into that
18 system. And it was my way of ensuring and I remained vigilant
19 and truly understanding of the impact of my actions as a Member
20 of the State Board of Education, that I will be as a parent,
21 seeing the consequences of what I do in my capacity here.

22 I'm not predisposed. I am clearly committed,
23 however, to public education. I believe it works. I believe it
24 can work, and I believe that under our tutelage, it will work.

25 We've not been confronted with the voucher issue
26 per se, certainly in my short tenure. And, you know, I've seen
27 and read, and it's always been on the periphery for me.

28 But as we speak, I mean, I'm not predisposed

1 either way, but I believe that you can read into my movement
2 with my own children that I have a genuine belief in public
3 education, and I'm willing to bet, frankly, her future on it at
4 this point.

5 SENATOR HUGHES: We have a growing number of
6 children who are immigrants from other countries in our
7 community.

8 How do you feel about the whole concept of
9 bilingual education, and what kind of leadership are you giving
10 on the State Board of Education to recognize the needs, the
11 crying needs that these parents expressed today?

12 MR. JENKINS: Well, I don't know that I've
13 evidenced any real serious leadership yet one way or the other.

14 SENATOR HUGHES: So, what do you plan on doing?

15 MR. JENKINS: Clearly, though, even as -- again,
16 I have several perspectives, and certainly one of them is as an
17 employer. I mean, we have provided places in our organization
18 for the bilingual nature of the business that we provide,
19 understanding it's part of our community.

20 And clearly, I believe that it is tantamount or
21 critical for us to recognize the diversity, the cultural
22 differences of all of the folks. This is a big melting pot.
23 And I clearly believe that we're going to have to find ways,
24 constructively, to engage ourselves in that debate and ensure
25 that the system is available to all.

26 I have no confusion in my mind with respect to
27 the legacy I want to leave. That is simply an educational
28 system that is as inclusive as it possibly can be in every

1 single regard. And that would include being able to insure that
2 students are able to receive an educational experience in the
3 language that is comfortable to them. And I'm comfortable in
4 that position.

5 SENATOR HUGHES: What do you feel about the STAR
6 test, specifically the augmented math test that was really very
7 difficult? What do you think the State Board should be doing
8 about these tests that we're using, and how should the test be
9 utilized in terms of instructional tools?

10 MR. JENKINS: Well, I've got to tell you, and I'm
11 sure this is with other Members of the Board; the hardest issue
12 for me as a new Board Member has been the whole testing issue.
13 I mean, it's been the hardest one to truly understand in the
14 context of framework, and standards, and the morass of tests
15 that do exist, and the amount of time children spend on testing.

16 I think, frankly, I don't have an answer for you
17 at this point. I mean, it's been the most complex issue for me.
18 And I still don't quite understand how they're supposed to
19 intersect, interweave. I find the process -- it's been
20 difficult for me to understand.

21 I can just sympathize with parents and some of
22 the other folks watching from the sides.

23 So, it is clearly an issue that I intend to
24 continue to work to understand, to try to be thoughtful, and
25 productive, and proactive on in the context of just ensuring
26 that at some point, there's a testing mechanism that works, and
27 not one that frustrates children, as the last test did in the
28 context of those who simply had not even been prepared for the

1 material, and teachers who simply hadn't taught it and didn't
2 know what to teach.

3 So, I'm not prepared to forcefully answer your,
4 question other than to say I, too, am confused by it all, and
5 will continue to try to learn and to be proactive in our
6 approach to that process.

7 SENATOR HUGHES: Thank you.

8 CHAIRMAN BURTON: Any other questions?

9 Witnesses in support, briefly? Good.

10 Witnesses in opposition?

11 SENATOR HUGHES: I'd like to move the nomination.

12 CHAIRMAN BURTON: Moved by Senator Hughes. Call
13 the roll.

14 SECRETARY WEBB: Senator Baca.

15 SENATOR BACA: Aye.

16 SECRETARY WEBB: Baca Aye. Senator Hughes.

17 SENATOR HUGHES: Aye.

18 SECRETARY WEBB: Hughes Aye. Senator Knight.

19 SENATOR KNIGHT: Aye.

20 SECRETARY WEBB: Knight Aye. Senator Lewis.

21 SENATOR LEWIS: Aye.

22 SECRETARY WEBB: Lewis Aye. Senator Burton.

23 CHAIRMAN BURTON: Aye.

24 SECRETARY WEBB: Burton Aye. Five to zero.

25 CHAIRMAN BURTON: Congratulations.

26 MR. JENKINS: Thank you.

27 CHAIRMAN BURTON: Lift the call on Susan Hammer,
28 please.

1 SECRETARY WEBB: Senator Baca.

2 SENATOR BACA: Aye.

3 SECRETARY WEBB: Baca Aye. Senator Burton.

4 CHAIRMAN BURTON: Aye.

5 SECRETARY WEBB: Burton Aye. Five to zero.

6 CHAIRMAN BURTON: Congratulations, Susan.

7 Monica Lozano.

8 MS. LOZANO: Good morning, Senator Burton,
9 distinguished Members of this Committee.

10 I thank you for the opportunity to come before
11 you today. I'm honored to be here and to be considered for an
12 appointment to the State Board of Education.

13 I intend to keep my remarks brief, and I look
14 forward to answering any questions you may have of me.

15 I believe that we live in a unique time that
16 offers us a unique opportunity. Californians today are clearly
17 united around one dominant common issue. There is a general
18 consensus that education, and particularly K-12 education, is
19 the state's number one priority, as well as number one challenge
20 facing California.

21 Californians have spoken loudly and clearly, and
22 our highest ranging policy makers have responded appropriately.

23 Within the last ten months, we have elected a
24 Governor who ran on a platform of education, education,
25 education. Our Legislature, under the leadership of Senator
26 Burton, enacted four sweeping school reform bills in a Special
27 Session that dealt with school accountability, teacher peer
28 review, as well as reading programs.

1 Our strong economy has allowed us to pass a
2 budget, allowed you to pass a budget, that reflects the state's
3 priority by allocating an additional \$109 million over and above
4 the minimum amount required by Proposition 98.

5 Californians not only have supported additional
6 funding for public schools, but are willing to pay for it. The
7 passage of Proposition 1A, which makes over \$6 billion available
8 for school construction over the next four years, is one of the
9 strongest signals yet that have been sent about how much we
10 truly care.

11 What better time to be a part of the policy
12 making body that is charged with developing the blueprint as
13 well as the action plan for our state's public schools? It
14 would be a privilege to work with the Governor, with this
15 Legislature, with Secretary Hart, and Superintendent Delaine
16 Eastin, as well as my fellow Board Members, all of whom are true
17 leaders, and who have demonstrated their expertise, their
18 dedication, and their compassion to these issues.

19 At this time of renewed commitment to improve
20 student achievement and making sure that California is well
21 positioned and prepared for the 21st Century, we must stay
22 focused on the basic approach which I believe to be sound. We
23 must set high performance based standards for all of our
24 children. We do need strong assessment tools which accurately
25 measure students' progress in acquiring those skills and
26 knowledge identified through our content standards.

27 And we need to put in place an accountability
28 system that appropriately motivates and incentivizes strong

1 performance.

2 But it is precisely because we are in era of high
3 stakes that we also have an equally important responsibility to
4 ensure high quality educational experiences for all of our
5 children, and to enhance opportunities for all of our children.
6 This is particularly challenging, as we heard this morning, in a
7 state as diverse and as complex as California.

8 I, too, was born and raised in California. I
9 cherish the richness and the diversity of this state.

10 We have children who go to school in urban
11 environments, in rural environments, children whose
12 socio-economic backgrounds differ greatly. We understand that
13 many of our students go to schools that are ripe with
14 overcrowding, facilities that require maintenance. We have over
15 1.4 million English language learners in this state, migrant
16 children, immigrant children.

17 The combination of class size reduction and the
18 high enrollment projections have accelerated the need for
19 qualified teachers. And many of our schools today are populated
20 with emergency credentialled teachers.

21 It is our responsibility at the level of the
22 State Board of Education to work with those institutions that
23 prepare teachers professionally and that can ensure that they
24 are prepared to deal with this diverse student body.

25 We have introduced a new framework and standards,
26 and now it is up to us to ensure that the curriculum is aligned,
27 that the appropriate text books are used, and that we are
28 teaching to these standards.

1 Our teachers need the tools necessary to carry
2 outs their job. And we as a Board must be held accountable to
3 this end.

4 An important report was recently released by one
5 of your colleagues, Senator Polanco, that focused on Latinos and
6 economic development in the 21st Century. I offer it to you
7 just as an example of the kinds of reasons why we need to care
8 about this.

9 We understand that today Latinos are 30 percent
10 of the state's population, and yet we comprise 40 percent of our
11 current student enrollment figures. The report appropriately
12 links educational attainment to economic development, as we
13 heard so eloquently by Commissioner Jenkins. This report
14 demonstrates scientifically the economic consequences of low
15 student achievement on the state's capacity to be prepared.

16 We must remain focused. The partners for
17 success -- teachers, administrators, the use and the appropriate
18 use of technology, facilities, libraries, text books -- are all
19 important in this endeavor.

20 Let me just say that I firmly believe that we
21 need to place more emphasis on working with and encouraging
22 parental involvement. They are the stakeholders as much as our
23 students are. They care, as we heard earlier, and are deeply
24 and highly motivated to make sure that their children have the
25 best educational experience possible.

26 I would hope that we as a Board could develop
27 strategies that engage and inform parents to ensure that their
28 important role is carried out effectively in the classroom.

1 Finally, let me just close by saying that our
2 challenge will be to catapult this renewed public interest in
3 education into and unwavering commitment to public education.
4 We must make it succeed. Our society was built upon democracy,
5 equal and open access. Education is the great equalizer, and I
6 am committed to doing what I can to help make this happen.

7 Thank you.

8 SENATOR LEWIS: Thank you very much.

9 I understand that among the many hats that you
10 wear, one is that you are a Trustee of the University of
11 Southern California?

12 MS. LOZANO: I am. And a very proud Trustee.

13 SENATOR LEWIS: Mr. Matthew Holder, who's
14 sitting in the audience, I'm sure, would lobby me probably to
15 move the nomination at this moment in time. I will resist that
16 temptation for just a second.

17 Are there any other questions, Members of the
18 Committee.

19 Senator Hughes.

20 SENATOR HUGHES: I'm very honored to meet you
21 today, and I'm sure that you heard the testimony earlier by many
22 parents who were concerned. And you said that you feel that
23 it's the obligation, and you should encourage parents to be more
24 involved.

25 So, I'm certain that the parents who came up
26 today felt that they were truly being involved in the system.

27 How are you, as a Member of the Board, going to
28 allay the fears and concerns that these parents had? Because I

1 really felt their pain, and I really feel their concern.

2 And how are you going to make certain that there
3 is fairness to their children, who are our children, children of
4 all of the state, to see that they get a good education?

5 MS. LOZANO: One of the things that -- and thank
6 you very much, Senator Hughes. I, too, am honored to meet you.

7 One of the things that we've spoken about quite a
8 bit at the Board level are the methods of communication, and how
9 this Board ensures that our actions are understood by the public
10 at large.

11 And as I mentioned earlier, I think there is no
12 more important stakeholder than parents.

13 We have not done a good job of that. I've been
14 charged with reviewing the methods by which the Board
15 communicates to this important constituency.

16 And one of the things that I intend to do is
17 ensure that not only the materials that explain our actions be
18 translated, but that they be made available in ways that are
19 relevant and understandable to all of our populations. That is
20 something that should be done. I consider it to be one of our
21 most important mandates.

22 Because parents right now not only feel left out,
23 they feel uninformed. And that for me is one of the most
24 important ways in which we can act as a Board.

25 SENATOR HUGHES: How will you as a Member of the
26 Board reassure people that it's quite all right for them to
27 participate?

28 I loved what Senator baca did when he told the

1 witnesses to speak in Spanish, and then we had the translator to
2 translate.

3 So, whether you are Spanish speaking, are
4 Portugese speaking, an Asian speaker, you are --

5 SENATOR BACA: Parlez vous francais.

6 SENATOR HUGHES: -- you are reluctant to come up
7 -- excuse me.

8 SENATOR BACA: Parlez vous francais. Oui, oui,
9 monsieur.

10 SENATOR HUGHES: That's quite all right. You
11 didn't destroy my train of thought, but you tried.

12 [Laughter.]

13 SENATOR HUGHES: It's always important for you
14 not to feel that you're being laughed at, and I think that's a
15 reason.

16 You know, we have many people in the
17 African-American, in the Chinese, and in the Japanese community
18 who don't want to come up and say anything because they're
19 embarrassed, because they don't feel that they have language
20 proficiency, or they don't feel that they have the education,
21 and they don't want their children to be embarrassed.

22 What can you do as a Board, and as Board Members,
23 to make them feel at ease, like Senator Baca did, that it's
24 okay?

25 MS. LOZANO: Well, I couldn't agree with you more
26 in terms of the importance of the issue.

27 One of the things that the Board has agreed to
28 do, and has stated as a priority, is to take the work of the

1 Board outside of Sacramento.

2 SENATOR HUGHES: Good.

3 MS. LOZANO: It's important that our
4 deliberations not just be held here, which, in fact, is not very
5 accessible for very many people, so we will be traveling. The
6 Board has voted on that, and we expect to do that very soon.

7 In addition to that, we have also expressed the
8 need to make sure that our deliberations are as public as
9 possible, so it looks as if we'll be on CSPAN, or one of the
10 cable programs. Not that we expect to have a lot of audience,
11 but those are some ways in which we think that we can at least
12 provide greater access to our deliberations.

13 I absolutely agree with you. In the case of
14 parents whose first language is not English, it is very, very
15 difficult. And it's up to us to make sure that the appropriate
16 translators are there so that they can speak in the language
17 that they are most comfortable, and in which their heart-felt
18 concerns can best be expressed.

19 I know that the Board is committed to ensuring
20 that our proceedings have translators available for those that
21 require them.

22 SENATOR HUGHES: Wonderful. Thank you.

23 SENATOR LEWIS: Senator Baca.

24 SENATOR BACA: Just two quick questions before I
25 move the nomination.

26 One, Monica, in reference to the dropout rate, do
27 you have any thoughts in reference to the dropout rates, and how
28 to address that?

1 MS. LOZANO: I don't have any answers, and having
2 heard the question now of a couple of my colleagues, I have some
3 suggestions.

4 And I would like to say that your idea of
5 developing a master plan for dealing with dropouts, I think, is
6 absolutely important.

7 One of the things that I think we can do as a
8 Board is to evaluate and gather the necessary information to
9 understand what are the factors that contribute to students
10 dropping out. We can be a resource for evaluation and the
11 gathering of the facts.

12 Once we know what those reasons, and I think most
13 of think we have a sense of them, we can work with the
14 Legislature to make sure that the appropriate funds are
15 dedicated towards the programs that we know that work.

16 We need to set the tone that we care. I looked
17 at the dropout rates just for LA Unified, and on an annual
18 basis, you have 17,000 children who are dropping out; 12,000 of
19 the 17,000 are Latino children. I mean, there is no way in
20 which we can allow this to continue to happen, recognizing that
21 the population of the state will continue to be more and more.

22 So, focusing on best practices, getting the funds
23 allocated towards those programs that work, evaluating the
24 reasons, tracking the expenditure of funds, and setting the
25 tone, as was stated earlier, that we really do care, and that we
26 find it intolerable that we suffer the kinds of high dropout
27 rates that we are seeing.

28 SENATOR BACA: Thank you.

1 Move the nomination, Mr. Chair.

2 CHAIRMAN BURTON: Witnesses in support?

3 Witnesses in opposition?

4 Call the roll.

5 I'm sorry, Senator Knight.

6 SENATOR KNIGHT: I've heard it now a couple of
7 times, the anticipated increase in dropout rate.

8 Why do we anticipate an increase in dropout rate?

9 MS. LOZANO: I'm sorry if I misspoke.

10 It's not that I anticipate higher rates of
11 dropouts. What I'm saying is that the student population that
12 has the highest rate will also be the segments of the population
13 that grows the fastest. So, what we need to do is to intervene
14 within that population rapidly.

15 SENATOR KNIGHT: Then you don't anticipate a
16 higher dropout rate?

17 MS. LOZANO: I don't; that's correct. And I
18 would hope that we could do what's necessary now to make sure
19 that --

20 CHAIRMAN BURTON: In other words, if you look at
21 it just by numbers --

22 MS. LOZANO: If we don't do something, right.

23 CHAIRMAN BURTON: All right. If you have a
24 certain segment of children, that there's a very high dropout
25 rate among Irish Catholics with freckles, and you are going to
26 increase the number of Irish Catholic with freckles, it's fair
27 to assume, unless we do something different, that we will have a
28 higher dropout rate because those --

1 SENATOR KNIGHT: -- the magnitude of the numbers,
2 but that's why we are normalize it when we say rate, and put a
3 percentage on it.

4 CHAIRMAN BURTON: No, but the rate would be, as
5 we get more Irish Catholic with freckles, we get less blond
6 haired, blue eyed people, so the rate goes up.

7 Got it?

8 SENATOR KNIGHT: No.

9 CHAIRMAN BURTON: Call the roll.

10 SECRETARY WEBB: Senator Baca.

11 SENATOR BACA: Aye.

12 SECRETARY WEBB: Baca Aye. Senator Hughes.

13 SENATOR HUGHES: Aye.

14 SECRETARY WEBB: Hughes Aye. Senator Knight.

15 SENATOR KNIGHT: Aye.

16 SECRETARY WEBB: Knight Aye. Senator Lewis.

17 SENATOR LEWIS: Aye.

18 SECRETARY WEBB: Lewis Aye. Senator Burton.

19 CHAIRMAN BURTON: Aye.

20 SECRETARY WEBB: Burton Aye. Five to zero.

21 CHAIRMAN BURTON: Congratulations. Thank you.

22 MS. LOZANO: Thank you.

23 CHAIRMAN BURTON: Vicki Reynolds, please.

24 MS. REYNOLDS: Good morning, Mr. Chairman,
25 Senators.

26 My name is Vicki Reynolds. I was born in
27 Southern California, and raised my family there.

28 I got -- received my Bachelor of Arts Degree from

1 UCLA and a Degree Superieur from the Sorbonne in the University
2 of Paris.

3 I began my formal activities on the Board of the
4 Dubnoff School for Educational Therapy, working with children
5 who were doubly disadvantaged, both learning disabled and
6 economically deprived. Our job was to set policy to meet their
7 needs and to raise dollars for their programs.

8 In 1976, I was one of 13 candidates for three
9 seats on the Beverly Hills Unified School District Board of
10 Education, and won a seat after a grassroots campaign run out of
11 my house. I'm sure some of you have experienced that.

12 During my nine years on our local school board,
13 two years as president, we worked through a myriad of issues,
14 including the Serrano-Priest decision, and the SB 90
15 implementation, Proposition 13. I was president of the school
16 board when we lost 60 percent of our budget overnight. It was
17 at that time that I implemented the first ever joint powers
18 agreement between school district and a city to find facilities
19 that were jointly used by the district and the city.

20 We addressed the transition from meet-and-confer
21 to collective bargaining of school employees, and I was active
22 on the California School Boards Association and the National
23 School Boards Association on the legislative committees,
24 lobbying for public education, and ran a workshop on
25 boardsmanship.

26 I have a record that I am proud of, with
27 policy-making experience at the district level dealing with the
28 day-to-day issues of public education.

1 I have won five local elections and will serve a
2 record third term as Mayor of Beverly Hills next year.

3 I am honored by the nomination to the State Board
4 of Education and challenged by the opportunity to serve at this
5 historic time.

6 I strongly support the Governor's reform package
7 and the collaborative efforts by the Legislature, State Board,
8 and the Department to provide every student in California with a
9 superior K-12 academic experience, the preparation to attain a
10 postsecondary education, and the skills to achieve his or her
11 potential as a productive and contributing citizen in the 21st
12 Century.

13 I'm hard working, dedicated, and experienced, and
14 I would look forward to working together with you. And I
15 respectfully ask your support of my nomination.

16 Thank you.

17 CHAIRMAN BURTON: Senator Hughes, any questions?

18 SENATOR HUGHES: Is this new board that you're on
19 going to be able to help the poorest schools and share the
20 knowledge of the most successful schools from one district to
21 another?

22 MS. REYNOLDS: I think that that is one of our
23 primary tasks, is to bring equal access to the finest education
24 to all schools. And as was my experience, lo those many years
25 ago, what we did was to help level up those districts that were,
26 in one way or another, disadvantaged. And that came from
27 sharing resources, sharing knowledge, and sharing the commitment
28 to those schools that need the extra help.

1 SENATOR HUGHES: Senator Bergeson, in her
2 inquisition, had indicated that there were certain goals and
3 objectives that she had, and she hoped to be able to meet, but
4 staff had not replied yet. It's this coming meeting when she's
5 supposed to get some of her answers.

6 Do you think those answers are so very, very
7 important. And if not, why not? Are you going to help her to
8 get those answers? Are you going to put the pressure where the
9 pressure needs to be so that you can get your job done?

10 MS. REYNOLDS: Well, good suggestions deserve
11 good answers, and they deserve support.

12 And I am wholeheartedly in support of convening
13 this panel of stakeholders, because going to the field, and
14 going to those who have a vested interest is the best way for us
15 to learn about how to ensure that we can deliver and require
16 that the actions of this Board are for the best of every
17 student.

18 So, I do support her suggestion.

19 SENATOR HUGHES: Last question. What's your
20 views on vouchers?

21 MS. REYNOLDS: I am adamantly opposed to
22 vouchers. I think the charter schools are a good substitute for
23 that. I think it gives the opportunity for students to have an
24 alternative, and I find that I have a record of not supporting
25 vouchers. I've run campaigns, as a matter of fact, against
26 vouchers in my capacity as a school board member.

27 SENATOR LEWIS: All right, anyone in the audience
28 wishing to testify in favor of the nominee at this point.

1 SENATOR BACA: Can I ask just a quick question?

2 SENATOR LEWIS: Senator Baca for a quick
3 question.

4 SENATOR BACA: When do you expect the English
5 learner's test to be developed? Do you have any idea?

6 MS. REYNOLDS: I don't think we have the timeline
7 because there is a great deal of effort to determine really what
8 is the best. There is Senator Alpert's bill, which you know,
9 which was taken under your advisement, and we are certainly
10 looking to the Legislature for their guidance.

11 But we are working hard to develop those
12 standards, and rigorous standards that will give English
13 language learners also the opportunity to be the best students
14 they can.

15 SENATOR BACA: Thank you.

16 Move the nomination.

17 SENATOR HUGHES: Move the nomination.

18 SENATOR LEWIS: We have a dual motion on your
19 nomination.

20 Very quickly, anyone from the audience that
21 wishes to testify in opposition or raise concerns at this point
22 in time?

23 Secretary, please call the roll.

24 SECRETARY WEBB: Senator Baca.

25 SENATOR BACA: Aye.

26 SECRETARY WEBB: Baca Aye. Senator Hughes.

27 SENATOR HUGHES: Aye.

28 SECRETARY WEBB: Hughes Aye. Senator Knight.

1 SENATOR KNIGHT: Aye.

2 SECRETARY WEBB: Knight Aye. Senator Lewis.

3 SENATOR LEWIS: Aye.

4 SECRETARY WEBB: Lewis Aye. Senator Burton.

5 SENATOR LEWIS: We'll place this on call.

6 Congratulations.

7 MS. REYNOLDS: Thank you very much.

8 [Thereafter, CHAIRMAN BURTON
9 added his Aye vote, making the
10 final vote 5-0 for confirmation.]

11
12 [Thereupon this portion of the
13 Senate Rules Committee hearing
14 was terminated at approximately
15 10:30 A.M.]

16 --ooOoo--
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1 CERTIFICATE OF SHORTHAND REPORTER

2
3 I, EVELYN J. MIZAK, a Shorthand Reporter of the State
4 of California, do hereby certify:

5 That I am a disinterested person herein; that the
6 foregoing transcript of the Senate Rules Committee hearing was
7 reported verbatim in shorthand by me, Evelyn J. Mizak, and
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9 I further certify that I am not of counsel or
10 attorney for any of the parties to said hearing, nor in any way
11 interested in the outcome of said hearing.

12 IN WITNESS WHEREOF, I have hereunto set my hand this
13 30th day of August, 1999.

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1 APPEARANCES

2 MEMBERS PRESENT

3 SENATOR JOHN BURTON, Chair

4 SENATOR JOHN LEWIS, Vice Chair

5 SENATOR JOE BACA

6 SENATOR TERESA HUGHES

7 SENATOR WILLIAM KNIGHT

8 STAFF PRESENT

9 GREG SCHMIDT, Executive Officer

10 PAT WEBB, Committee Secretary

11 NETTIE SABELHAUS, Consultant on Governor's Appointments

12 WADE TEASDALE, Consultant to SENATOR LEWIS

13 FELICE TANENBAUM, Consultant to SENATOR HUGHES

14 ANDY PUGNO, Consultant to SENATOR KNIGHT

15 MANNY HERNANDEZ, Consultant to SENATOR BACA

17 ALSO PRESENT

18 PAUL MONROE, State Director and California Adjutant General
19 Military Department

20 SENATOR DON PERATA

21 HENRY R. MORRIS, Civil Aide
22 Secretary of the Army

23 DWIGHT "SPIKE" O. HELMICK, Commissioner
24 California Highway Patrol

25 DAVID COMMONS, Private Citizen

26 ROBERT VARNI, California Chairman
Employer Support of the Guard and Reserve

27 ROSEMARY PAPALEWIS, Vice President
28 Sylvan Learning Systems

1 BONNIE PANNELL, Member
2 Sacramento City Council

3 BRIG. GEN. EZELL WARE, JR., Assistant Adjutant General
4 California National Guard

5 DENNIS W. HAYASHI, Director
6 Department of Fair Employment and Housing

7 SENATOR HILDA SOLIS

8 RICHARD HOLOBER
9 California Labor Federation

10 ELIZABETH E. GUILLEN
11 Mexican American Legal Defense and Educational Fund

12 ARTHUR G. BAGGET, JR., Member
13 State Water Resources Control Board

14 SENATOR BYRON SHER

15 RICHARD LEHMAN
16 Former Congressman

17 KATHLEEN COLE
18 Metropolitan Water District of Southern California
19 Bay-Delta Urban Coalition

20 STEPHEN MACOLA
21 Moulton-Niguel Water District

22 JUDY JOHNSON, Chief Trial Counsel
23 State Bar of California

24 LARRY DOYLE, Chief Legislative Counsel
25 State Bar of California

26 HOWARD OWENS, Executive Director
27 Consumer Federation of California

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1 P-R-O-C-E-E-D-I-N-G-S

2 --ooOoo--

3 CHAIRMAN BURTON: Senator Perata.

4 SENATOR PERATA: Thank you, Mr. Burton, Members.

5 I am very proud this morning to be here to
6 introduce General Paul Monroe, Junior. It's probably not
7 surprising, given my vast military career, all the honors that
8 I've received, that I should be here to do this.

9 The General was born and raised in my district.
10 He's a graduate of Castlemont High School, which is one of the
11 old guard high schools in Oakland. He graduated in 1954.

12 There will be others, and you certainly have the
13 information that would highlight his distinguished career. But
14 what I'm very excited about is that the General has shown an
15 uncommon interest in working within the community and working
16 with everyone in the community, that what the military has to
17 offer, it has to offer to everyone.

18 And I think that it's a great opportunity for us,
19 as we enter into the next part of our -- I hate to use that
20 word, millenium -- as we get over to the next year, that we have
21 somebody who is as aggressively committed as he is.

22 We have already made plans in the City of
23 Oakland, which is mayored now by former Governor Brown, to work
24 very closely with the General and with Guard, and look forward
25 to working with young people as we begin to reform the
26 community. Because I believe, and the General believes, that
27 there are great opportunities for us to work with our young.

28 I'd also like to take the opportunity just to

1 acknowledge the fact that his wife Laura is here. Today is the
2 first day of school in Berkeley. She is the Principal at
3 Emerson Elementary School. And I think she was deeply committed
4 to her husband, because normally she wouldn't have cut the first
5 day of school, but she's here.

6 [Laughter.]

7 SENATOR PERATA: I just would disclaim at this
8 time that we're going to try to lure her into honest work in
9 Oakland, sooner than later.

10 But it is my distinct pleasure to introduce to
11 you and commend to you for your of approval Major General Paul
12 Monroe, Junior.

13 GEN. MONROE: Thank you, Senator Perata.

14 Mr. Chairman, Senators, good morning.

15 I'm Major General Paul Monroe, of the California
16 National Guard. As the nominee for the position of Adjutant
17 General and the Director of the Military Department, I'm honored
18 to be appear before you this morning.

19 The California National Guard consists of several
20 outstanding young men and women. They're dedicated to the
21 service of the state and the nation. And to support them, I
22 have put forth goals to enable them to develop. These provide
23 for the readiness, both federal and state, emergency readiness,
24 and for support to our communities: the maintenance of unit
25 strength, so that we actually have the personnel to do the jobs
26 we're expected to do; an equal opportunity program which will
27 ensure that everyone can achieve their full potential.

28 Another goal of ours is to achieve full-time

1 support. We get federal money to support this, and specially on
2 the Army side, we are below the percentage of staffing which
3 effects readiness.

4 I also want to develop a positive public image
5 for the California National Guard. We seem to be a secret in a
6 lot of the state.

7 We also have a strategic planning process which
8 will ensure our relevance, now and into the future.

9 We need to modernize our Army installations. The
10 Air Force installations are extremely good. They are supported
11 by the active Air Force a lot better than the active Army
12 supports the California Army National Guard.

13 And then finally, to achieve joint operations
14 between our Army and Air National Guard. In order to accomplish
15 this, we've established three core values. One of integrity
16 that's uncompromising, honesty; and the second is duty, which is
17 selfless service and excellence in all that we do; and our third
18 is loyalty, that's to the nation, our state, those who we serve,
19 and to each other.

20 I have over 40 years of military experience, 35
21 in the California National Guard. I've commanded at all levels,
22 from platoon, company, battalion, and Deputy Brigade Commander,
23 and here at the State Headquarters. I've also had a variety of
24 staff positions.

25 I feel the direction that I've established for
26 the California Guard enables us to respond across the wide
27 spectrum of missions for both domestic and international
28 requirements.

1 Senators, I thank you for the opportunity to
2 share a little bit about myself and California National Guard.
3 I'm subject to your questions.

4 SENATOR LEWIS: Good morning, General.

5 GEN. MONROE: Good morning.

6 SENATOR LEWIS: Question of the day: What's
7 better, the Army or the Air Force.

8 [Laughter.]

9 SENATOR KNIGHT: Do you really want to ask that
10 question?

11 GEN. MONROE: The Army is best at what they do,
12 and the Air Force is best at what they do.

13 [Laughter.]

14 SENATOR LEWIS: Back in the 1992, when we
15 experienced the problems with the riots in Los Angeles, there
16 seemed to be a problem with deploying the National Guard troops,
17 a question of whether or not they were adequately supplied with
18 ammunition and everything.

19 Have you looked into that problem in the past?

20 GEN. MONROE: Yes, sir. Actually, I think that
21 problem was pretty much addressed by my predecessor, but it's
22 something that we're concerned with, too.

23 We are in the position to respond immediately to
24 state emergencies. We have people responding as we sit here to
25 the fires throughout the state, both Army and Air National
26 Guard.

27 I'm confident that the state will be pleased with
28 our response time.

1 SENATOR LEWIS: What's your position and thoughts
2 about legislation that we recently passed again making the
3 armories available as temporary homeless shelters?

4 GEN. MONROE: I think that the California
5 National Guard should be part of that solution, but they should
6 not be the solution. We would like to work with those that are
7 responsible for providing shelters to do so what we can in
8 emergency situations. They're really not adequate to house
9 people permanently, but we would like to be part of that
10 solution and help with the services that will provide adequate
11 housing.

12 SENATOR LEWIS: Questions, Members of the
13 Committee? Colonel Knight.

14 SENATOR KNIGHT: Well, I guess my question,
15 General, was the fact that you had written sometime ago about
16 the Guard becoming more and more involved in community
17 activities.

18 I wondered what those involve, and how do you
19 feel that the Guard should be involved in those kinds of
20 activities?

21 GEN. MONROE: That's one of our primary missions,
22 and the Guard has done that all along. Most recently in
23 Sacramento, we have adopted Parkway Elementary School. The
24 132nd Engineer Battalion supports that school with some of its
25 construction and maintenance projects.

26 And as Senator Perata said earlier, we are --
27 have an initiative going with -- developing with Oakland. We
28 have had the Angel Gate Academy, which has been going on for

1 sometime for students out of Los Angeles. It's a science and
2 technology based program. It runs for a year, but five weeks
3 out of that year, we take 80 students -- this runs all year
4 long -- and bring them up to San Luis Obispo. They take classes
5 next door at Cuesta College, and they learn self discipline with
6 us.

7 We also have the Challenge Program.

8 As I mentioned before, the Army has 127 armories
9 throughout the state. That's the basis for their community
10 based programs.

11 The Air National Guard, even though they're an
12 installation some of which are federal, they also have active
13 community programs. And they reach out quite well to the
14 community. Our Public Affairs section is very active in
15 informing the public that we are there to support the programs.

16 SENATOR LEWIS: Senator Baca.

17 SENATOR BACA: Thank you very much.

18 My brother served in the National Guard and
19 retired from the National Guard, and I served in the 101st and
20 82nd, so I noticed some wings out there. So, it's appropriate
21 in reference to your response about the Air Force and the Army,
22 since some of us flew in the planes but jumped out of them
23 because we wanted to be on land.

24 SENATOR KNIGHT: Not too bright. Just not too
25 bright at all.

26 [Laughter.]

27 SENATOR BACA: That's why we were tough, since I
28 served with both the 101st and 82nd Air Borne Division.

1 One of the areas that you mentioned in part of
2 your statement is in federal funding. You indicated that we
3 needed more funding at the federal level in order to be
4 prepared; is that correct? That we're not getting our fair
5 share from the federal government?

6 GEN. MONROE: Yes, sir. That is my belief.
7 There is, I'm sure all you understand that there is this
8 perception not only in Congress but in the National Guard
9 Bureau, which supports us, that anywhere but California.

10 California has the largest National Guard. When
11 the National Guard Bureau gets 54 things, they give one to each
12 state. So, we get the same allocation that Rhode Island gets.

13 We need to upgrade our C-130 air craft, the 136th
14 Air Wing at Channel Islands. We're on the list to get them,
15 right behind Rhode Island. When Rhode Island takes off, they're
16 out of the state.

17 And we use C-130s all the time throughout the
18 state. There's C-130s fighting forest fire right now.

19 SENATOR BACA: Thank you. That's an area that
20 maybe our delegation from California can work on, additional
21 funding, and plus any other potential Congressional persons that
22 may be there.

23 One other question that I have, General, is, what
24 is the present role? What would you describe the present role
25 of the National Guard?

26 GEN. MONROE: Well, we have three roles. That's
27 to be the first responder for a national emergency; to respond
28 for state emergencies; and to support our communities.

1 Now, we do those quite well. Traditionally,
2 because most of our money comes from the federal government, we
3 spend more time training for federal readiness. But that also
4 supports what we need to do for the state.

5 If we have the right force structure, and the
6 prior administration did that, I believe, they gave up a brigade
7 of our division so we could get additional force structure that
8 would not only support federal requirements but state
9 requirements, and then support to the communities. And that
10 varies from the youth programs we do, to just making our
11 armories available for community programs, after-school
12 programs, or anything that a particular community needs.

13 One way I hope to expand our influence in the
14 community, in the Army National Guard, they have what we call an
15 Armory Board. If there's more than one unit in the Armory, they
16 get together and decide how they're going to use the armory,
17 what unit will drill on what day.

18 I am requiring that they also include a member of
19 the community on that, so the community can also have the input,
20 because in addition to some armories being used as emergency
21 shelters, the armories are, except for the full-time people that
22 are there, and that's only about three or four in any particular
23 armory, they're virtually vacant during the week when soldiers
24 are not actually training. So, the community can have input on
25 how we can use that facility for the community.

26 SENATOR BACA: One final question. You indicated
27 in reference to community involvement, hopefully you could look
28 at the possibility in an area that I represent, the Inland

1 Empire, and hopefully that we have a couple of armories, that
2 they could adopt some schools. If you could more or less look
3 at what's going on in that area, and maybe suggest that they be
4 involved in that area as well.

5 GEN. MONROE: We'd love to do so that. That's my
6 passion.

7 SENATOR BACA: Okay, that is it. Move
8 confirmation.

9 SENATOR LEWIS: Thank you.

10 Senator Hughes.

11 SENATOR HUGHES: I've been told that the
12 proportion of the National Guard officers who are members of
13 ethnic minorities is less than half the proportion of enlisted
14 personnel who are members.

15 What efforts are you making to achieve equal
16 opportunity and greater gender and ethnic diversity?

17 GEN. MONROE: In the military, in order to
18 receive appointments at senior level, you must have certain
19 appointments at junior levels. So, one of the things I'm doing
20 is making sure that our young people, especially women and
21 minorities, are mentored at junior levels, that they get the
22 education and the assignments that they need so that they're
23 competitive at senior level. We have -- we are doing that now.

24 The other thing that I'm requiring is that on the
25 Officer Efficiency Report of each senior officer reflects, by
26 name, what individual they are mentoring, and how they're doing
27 for the year. And these individuals must include at least one
28 minority or if female officer.

1 SENATOR HUGHES: How many mentees does a mentor
2 have under your jurisdiction and guidance?

3 GEN. MONROE: Some as few as one, but when you
4 get more than about three or four, you reach a point of
5 diminishing return, yes.

6 SENATOR HUGHES: I'd like to move the nomination.

7 SENATOR LEWIS: I think that's our second motion.

8 The Chair would note that there is no opposition
9 listed on record, but at this point in time we'll go ahead and
10 ask if there's anyone who wishes to come forward and testify in
11 favor of the appointee.

12 MR. MORRIS: My name is Henry Morris. I retired
13 from Bell Telephone and have spent many years associated with
14 military reserve program, retiring as a Colonel in the Marine
15 Corps March Reserve. Currently, I'm serving as Civilian Aide to
16 the Secretary of the Army.

17 I'm here to speak in support of the nomination of
18 General Monroe to the position of State Adjutant General and to
19 give my opinion as to why I feel this officer is eminently
20 qualified.

21 If a knowledgeable person were to be asked to sit
22 down and write a list of the ideal perfect and most desirable
23 qualifications for any officer to be a candidate for the
24 position of Adjutant General, that list of ideal qualifications,
25 when compared with General Monroe's military record, would be
26 identical, identical in every detail.

27 General Monroe's personal military history, when
28 reviewed in any perspective, whether it be the military schools

1 he's attended, or the commands he's held, gives this officer a
2 depth and variety of experience which is truly remarkable. Not
3 only has this officer held nearly every rank, enlisted and
4 officer, from private to general, but further, the wide
5 diversity of his commands, covering many, many military skills
6 and disciplines, everything from infantry, signal corps,
7 military police, line staff, he is indeed unique.

8 He's served as a platoon commander, a company
9 commander, a battalion commander, and brigade. He's done it
10 all. And in each instance, his service has been rated as
11 outstanding.

12 He was selected to attend Army technical schools
13 in the Army's highest level top schools, the U.S. Army War
14 College and the Command and General Staff's College. In each
15 instance, in a highly competitive student body universe, he
16 proved to be a distinguished scholar.

17 Finally, in the interest of your time, I'd only
18 like to add that General Monroe happens to be a good family man
19 and a consumate gentlemen. He's someone who gets along with
20 people. He's never too busy to help others in his community.
21 He found the time to be Chairman of the Bay Area March of Dimes
22 Chapter. He participated in Easter Seals, various youth groups,
23 and is active in a number of similar organizations.

24 I strongly urge your favorable consideration of
25 General Monroe as California Adjutant General, as he is, indeed,
26 superbly qualified for the job.

27 Thank you for listening to me.

28 SENATOR LEWIS: Thank you very much.

1 Any additional testimony at this time?

2 SENATOR KNIGHT: How did you miss Squadron
3 Officers School?

4 GEN. MONROE: I wasn't in the Air Force, sir.

5 SENATOR KNIGHT: But don't you have the same
6 equivalent?

7 GEN. MONROE: Yes, we have the advanced course,
8 and I did attend that.

9 SENATOR KNIGHT: It wasn't listed.

10 GEN. MONROE: Oh, I'm sorry.

11 MR. HELMICK: Thank you, Senator. My name is
12 Spike Helmick. I'm the Commissioner of the California Highway
13 Patrol.

14 I am here also to very strongly support the
15 confirmation of General Monroe.

16 I think you asked a question, Senator Lewis,
17 about the working together, and things that have occurred in the
18 past. And I'm here to tell you that both of our departments
19 work very closely together in times of statewide emergencies.

20 We have found General Monroe to be extremely
21 helpful and competent and willing to work collectively together
22 to ensure that the people of the state have both of our
23 assistance in a timely fashion.

24 I don't think you could pick anyone better. I
25 would ask your support of the General for this position.

26 Thank you.

27 SENATOR LEWIS: Thank you, Spike.

28 Any further testimony?

1 MR. COMMONS: My name is David Commons.

2 I'm an old senior citizen, and I would very
3 informally like to say that right now, forest fires are burning
4 all over the state. We are threatened seriously by the
5 possibilities of disturbance of Y2K.

6 And I know all of you fellas and all you ladies,
7 you're my friends.

8 I want to sleep at night. I'm 80-odd years old.
9 And all the other 80-odd year old guys want to sleep at night.
10 And when you confirm him, we'll be able to sleep.

11 So confirm him so we can get up in the morning
12 and go around with our eyes hanging down to our knees.

13 Thank you very much.

14 SENATOR LEWIS: Thank you. Next.

15 MR. VARNI: Good morning. My name is Robert
16 Varni. I'm the California Chairman of the Employer Support of
17 the Guard and Reserve. This is an arm of the Department of
18 Defense, staffed with a group of about 115 civilians here in
19 California.

20 Our mission is to maintain good relations between
21 our National Guard members and the people for whom they work.
22 And quite often, that gets difficult when they're called away on
23 emergencies and have to come back and get their job, and the
24 employer has had a difficult time surviving without them.

25 So, the role we play is working with the 22,000
26 members of the California National Guard in keeping those
27 relations well.

28 I would also like to add that a major role and

1 one that I participated in for a week just a year ago is the
2 role of the California National Guard in international affairs.

3 As you may know, the California National Guard
4 mentors the Ukrainian Army, and it's a very important task, to
5 see that the Ukrainian Army operates properly and with strength.
6 And would be one of the General Monroe's responsibilities.

7 So, based on our experience, and based upon his
8 experience and his background, I strongly urge that you confirm
9 General Monroe for the position of Adjutant General.

10 Thank you.

11 SENATOR LEWIS: Thank you very much.

12 MS. PAPALEWIS: Good morning, Chairman and
13 Members. My name Rosemary Papalewis, and I'm the former
14 Assistant Vice Chancellor for the California State University
15 under Chancellor Barry Munitz, and I'm currently a vice
16 president at Sylvan Learning Systems.

17 I have known General Monroe for three years, both
18 professionally and personally. And I'm here to support his
19 nomination.

20 His passion, his very aggressive pursuit of
21 California youth programs through the California National Guard
22 is going to take what has been very successful programs and grow
23 them and make them stronger.

24 I fully support and commend his appointment
25 today.

26 SENATOR LEWIS: Thank you very much.

27 COUNCILWOMAN PANNELL: Good morning. I'm
28 Sacramento City Council Member Bonnie Pannell, and it's with

1 great pleasure that I support the appointment of Major General
2 Monroe as the Adjutant General and Director of the California
3 National Guard.

4 Working with the California National Guard under
5 the leadership of General Monroe, we have effected positive
6 change for our youth by upgrading their learning environment at
7 Parkway Elementary School.

8 So, Mr. Baca, you have to get in line because he
9 has to adopt some more elementary schools in south Sacramento.

10 So we, the City of Sacramento --

11 SENATOR BACA: But the growth is in the Inland
12 Empire.

13 COUNCILWOMAN PANNELL: We the City of Sacramento
14 look forward to the appointment of Major General Monroe to be
15 Adjutant General and Director.

16 Thank you.

17 SENATOR LEWIS: Thank you, Councilwoman.

18 GEN. WARE: Thank you very much, Mr. Chairman.
19 I'm General Ezell Ware. I'm the Assistant Adjutant General for
20 the state of California.

21 I've known General Monroe for some 25 years,
22 about 20 years as A Member of the California National Guard, and
23 of course, he was in the California National Guard prior to my
24 coming in.

25 I am a former Marine and also a combat veteran
26 with the 101st Airborne Division, Mr. Baca.

27 In my entire military career, which covers about
28 35, 36 years, I know of no one that is more credible than

1 General Monroe, and one that will take us firmly into the new
2 millenium.

3 General Monroe and I have talked about this day
4 since 1985, when we were both majors, sitting in the tents down
5 at Camp Roberts. And we had great ideas on how we would try to
6 make some changes to improve the overall atmosphere of the
7 California National guard for both men and women, should we get
8 into a position like this.

9 I wholeheartedly and absolutely support the
10 confirmation of General Paul Monroe. We could get no better
11 officer for this job.

12 Thank you.

13 SENATOR LEWIS: Thank you very much.

14 At this time is there anyone in the audience
15 wishing to oppose the nomination or raise concerns? Seeing
16 none, we already have a motion. Please call the roll.

17 SECRETARY WEBB: Senator Baca.

18 SENATOR BACA: Aye.

19 SECRETARY WEBB: Baca Aye. Senator Hughes.

20 SENATOR HUGHES: Aye.

21 SECRETARY WEBB: Hughes Aye. Senator Knight.

22 SENATOR KNIGHT: Aye.

23 SECRETARY WEBB: Knight Aye. Senator Lewis.

24 SENATOR LEWIS: Aye.

25 SECRETARY WEBB: Lewis Aye. Senator Burton.

26 SENATOR LEWIS: We'll place that matter on call.
27 General, Congratulations.

28 GEN. MONROE: Thank you, Senator.

1 SENATOR PERATA: I'd just like to acknowledge
2 that the General's son, Paul, is also here with us today.

3 Thank you very much.

4 SENATOR LEWIS: Thank you for doing that.

5 [Thereafter, CHAIRMAN BURTON
6 added his Aye vote, making the
7 final vote 5-0 for confirmation.]

8 SENATOR LEWIS: Senator Solis.

9 SENATOR SOLIS: Thank you, Mr. Chairman and
10 Members.

11 It is my honor today to introduce to you Dennis
12 Hayashi, before you today for confirmation for Director of the
13 California Department of Fair Employment and Housing.

14 He has very distinguished career. As you know,
15 he attended Occidental College, graduating cum laud in 1974, and
16 earned a law degree at Hastings College of Law.

17 He is the first, one of the few, highest ranking
18 Asian Pacific Americans nominated by the Governor of California
19 to lead the largest state civil rights agency in the country.
20 And he's charged with protecting and safeguarding the civil
21 rights all Californians.

22 Mr. Hayashi is nationally recognized in the field
23 of civil rights. From 1993 to 1997, he worked as Director of
24 the Office for Civil Rights in the U.S. Department of Health and
25 Human Services. In addition, he has a long record working on
26 civil rights and legal services organizations.

27 Mr. Hayashi's career has been devoted to fighting
28 for civil rights and equality. He's worked against hate crimes,

1 anti-Asian violence, and co-founded the National Network Against
2 Anti-Asian Violence.

3 His appointment is especially critical in a
4 period when the state is beset with an epidemic of hate violence
5 and a growing racial intolerance.

6 His appointment is especially critical for the
7 state. I urge your full support for his appointment as Director
8 of the California Department of Fair Employment and Housing.

9 He has also served as National Director of the
10 Japanese American Citizens League, the Board of Directors of the
11 San Francisco CORO Foundation, Board of Directors of San
12 Francisco Legal Assistance Foundation, Board of Directors for
13 the Coalition of Asian Pacific Americans, and member of the
14 California Commission on the Prevention of Hate Violence.

15 He has written numerous articles in the
16 Washington Post, the San Francisco Chronicle, and the Yale Law
17 School Journal.

18 He's had a very prestigious career, and it's my
19 honor to present him today in hopes that you will confirm his
20 appointment.

21 SENATOR LEWIS: Thank you very much, Senator.

22 Good morning, Mr. Hayashi.

23 MR. HAYASHI: Thank you, Mr. Chairman.

24 Thank you, Senator Solis, for those kinds
25 remarks.

26 Mr. Chair, Members of the Committee, thank you
27 very much for the opportunity to briefly present to you my goals
28 and objectives for the Department of Fair Employment and

1 Housing.

2 As you know, the Department's mission is to
3 protect Californians from unlawful discrimination in employment,
4 housing, and public accommodations, and from perpetration of
5 acts of hate violence.

6 1999 marks the 40th anniversary of the creation
7 of the Department. State civil rights laws and policy have
8 evolved greatly during this time, providing some of the most
9 extensive anti-discrimination protections in the country. Yet,
10 as recent events have indicated, the problem of racial and
11 ethnic tension, including hate violence, continues to plague us.

12 The total number of complaints of discrimination
13 received by the Department has increased by 20 percent in the
14 last five years, particularly in the areas of disability and
15 sexual harassment.

16 In light of these circumstances, it is more
17 important than ever that the Department send out a clear and
18 unequivocal message: We will not tolerate acts of
19 discrimination, hate, or unlawful harassment. We will be
20 relentless in filing civil and administrative actions to stop
21 any and all such activity. We will ensure that equal
22 opportunity and equal rights are not 40-year-old slogans but
23 present day guiding principles.

24 To support these objectives, the Department needs
25 to strengthen its enforcement by focusing on the twin goals of,
26 one, delivering more efficient service, and two, raising
27 awareness of California's anti-discrimination laws.

28 Specifically, processing and continuing to

1 resolve formal complaints in a timely manner is fundamental to
2 carrying out our mission, while training, education, and
3 technical assistance for employers, housing providers, and
4 public entities heightens knowledge of legal obligations and
5 prevents discrimination.

6 Receiving and resolving complaints is our highest
7 priority. We are aware that there remains a great deal of truth
8 to the saying, "Justice delayed is justice denied," and that
9 meaningful enforcement of anti-discrimination laws is dependent
10 on how expeditiously the Department conducts its investigations
11 and makes determinations.

12 Data suggests that the Department's improving its
13 efficiency, but we can do more. As I've indicated in my letter
14 to Chairman Burton, I intend to establish a mediation process
15 that would facilitate the settlement of many complaints prior to
16 the Department undertaking a formal investigation. Mediation
17 would streamline the process, and more importantly, save time
18 and money. Mediation has proven to be an effective tool in
19 conciliating differences when utilized by government agencies
20 like the Equal Employment Opportunity Commission, and would
21 provide us with a valuable mechanism to bring complainants and
22 respondents together to quickly resolve differences.

23 Equally important as making the process more
24 efficient is making the process more accessible. Right now,
25 there are parts of our state where it is just too difficult for
26 residents to file complaints with our office. As such, I
27 believe the Department must bring its services to the public.

28 I have asked the Department to develop by this

1 fall a pilot program to conduct intakes in some of the state's
2 distant locations, which would include those areas 100 or more
3 miles from one of our offices.

4 While filing complaints is essential to
5 fulfilling our mission, the Department must be equally focused
6 on preventing discrimination. Given the complexity of our laws,
7 employers or housing providers can often be confused about or
8 simply unaware of what their legal responsibilities are. As
9 such, we must strengthen our education and training efforts. As
10 a first step toward doing so, the Department last week launched
11 its Internet Web site, which contains extensive information
12 about DFEH's functions and the laws it enforces.

13 The Web site will also soon make it possible for
14 the public to download required posters and educational
15 documents for their use.

16 I also intend to develop an external affairs unit
17 whose function will be to increase communication with businesses
18 and housing providers, and I will commit more resources to
19 making training and technical assistance available to a wider
20 range of stakeholders.

21 Finally, the Department must be responsive to
22 addressing new and pressing issues. I have asked the Department
23 to put renewed emphasis on our efforts to enforce the Ralph
24 Act's protections against hate violence, to explore expanding
25 enforcement efforts to curtail and prevent sexual harassment,
26 and to develop ways to heighten awareness about the provisions
27 of the Family Rights Act.

28 Confidence in Department's work depends in part

1 on how comprehensive its enforcement activity is.

2 I hope I have been able to provide you with a
3 general picture of my objectives as Director of the Department
4 of Fair Employment and Housing.

5 I want to thank the Governor giving me the
6 tremendous honor of heading this state's civil rights agency. I
7 look forward to working with the Legislature to ensure that
8 equal opportunity and freedom from discrimination remains one
9 of this state's highest priorities.

10 Thank you.

11 SENATOR LEWIS: Thank you very much.

12 There are a number of communities up and down the
13 state, usually very wealthy communities, that try to enact
14 no-growth policies.

15 Do you believe that these kind of policies are
16 discriminatory against low-income people wishing to obtain
17 living accommodations there?

18 MR. HAYASHI: With respect to whether or not a
19 particular situation would be discrimination under one of our
20 laws, I think, of course, depends very much on the facts of a
21 given situation.

22 In general, however, I believe that the question
23 of whether any of this activity rises, or a complaint about such
24 activity would rise to the level of discrimination is something
25 that would we would have to analyze. And should such a
26 situation arise, we would do our best to make it known publicly
27 and facilitate some type of assistance to various communities
28 about compliance with the law.

1 SENATOR LEWIS: Do you think that an English-only
2 requirement at a work place could be considered unlawful, or
3 should be considered unlawful discrimination?

4 MR. HAYASHI: Again, that depends on the
5 circumstances of a given case, because there are often a number
6 of factual nuances to specific cases which we'd have to analyze.

7 Should there be any policy within the work place
8 which violates, for example, restrictions against discrimination
9 on the basis of national origin or race, we would take that into
10 consideration.

11 But I would not want to make a general statement
12 that an employer's policy in this particular area may or not be
13 discriminatory.

14 SENATOR LEWIS: So, in and of itself, and
15 English-only work place policy would not constitute
16 discrimination in your mind?

17 MR. HAYASHI: Yeah, again, it would have to
18 depend on exactly what the policy said and how it was applied to
19 the employees.

20 SENATOR LEWIS: From your experience, what
21 percentage of sexual harassment lawsuits turn out to be
22 unfounded?

23 MR. HAYASHI: Well, we found that a number of the
24 cases that have come before us actually have been conciliated.
25 In other words, somebody has brought an accusation, and parties
26 have been brought together, and an amicable resolution of the
27 case has been arrived.

28 I think that, by and large, the majority of our

1 complaints fall into that category. So, there is, therefore, no
2 need for formal findings per se of whether or not an employer
3 has discriminated against an individual complainant.

4 SENATOR LEWIS: Well, with the complexity of our
5 sexual harassment laws these days, I mean, sometimes it could be
6 a generational thing, where someone says something that he
7 doesn't --

8 MR. HAYASHI: Right.

9 SENATOR LEWIS: -- to be harassing, and someone
10 takes it the other way, and it's kind of in the eye of the be-
11 holder. So, you have those close call situations.

12 But then, every once in a while, you have
13 situations where someone just files a sexual harassment lawsuit
14 because they're unhappy at the work place, and it's a totally
15 bogus claim.

16 Do you have any rough guess of what percentage
17 that might constitute?

18 MR. HAYASHI: With respect to the situation that
19 you've described, I don't have really a rough estimate as to how
20 many complaints may fall into that category, but I'm more than
21 happy to review the situation with my staff and get back with
22 you with more information on that.

23 SENATOR LEWIS: Okay.

24 Questions from Members of the Committee? Senator
25 Hughes.

26 SENATOR HUGHES: Good morning.

27 Could you tell me, are you really surprised by
28 the fact that the Department received 20 times more complaints

1 about employment discrimination as compared with housing
2 discrimination?

3 MR. HAYASHI: Well, in some respects I am a bit
4 surprised by that. But in other respects, I am not.

5 I believe that in the past -- well, there are
6 several reasons for that. One is that in the past, I think, the
7 Department has emphasized its services in the area of employment
8 discrimination.

9 And secondly, quite frankly, most people who come
10 to the Department are concerned about the employment situation
11 versus housing discrimination or public accommodations.

12 One of things I think, though, that our
13 Department should be doing more of is informing the general
14 public about what their rights are in the area of housing and
15 public accommodations.

16 My feeling is that if we expand our efforts in
17 terms of broadening education, that people who realize they may
18 have some rights in these areas will come forward and file with
19 our office.

20 SENATOR HUGHES: How do you plan on doing that?
21 How do you plan on getting out the message to people that they
22 have rights, and you are there to protect their rights?

23 MR. HAYASHI: First of all, as I stated in my
24 remarks, I think it's very important for the Department to have
25 its own public affairs education unit that will be responsible
26 for doing that.

27 But I think the establishment of our Web site,
28 for one thing, is a very, very good way of getting the ball

1 rolling with respect to dispensing more information about what
2 it is we actually enforce and what rights people have.

3 Secondly, I intend to work with both housing
4 providers and fair housing councils around the state to get the
5 word out that we want to meet with people, we want to hold
6 clinics, if that is necessary, we want to talk to housing
7 provider councils as much as possible to see what their concerns
8 are. And I think by doing these things we'll be able to get
9 the word out.

10 SENATOR HUGHES: Then do you think the Department
11 staff going to be adequate to handle the workload that you're
12 going to generate after you advertise that we're here to help?
13 And what plans do you have in the future coming budget year to
14 make sure that you have the work force that's needed?

15 MR. HAYASHI: I have a very capable staff, and
16 they are fully capable of handling the complaints that come to
17 our office.

18 But I will say, I think that if we see continued
19 spikes in the number of cases that we receive, it would help
20 greatly for us to augment our staff with more counselors and
21 technical assistance individuals who can help people understand
22 what their rights are. And so, we're talking now and discussing
23 ways that we can, perhaps, look to the future and make sure that
24 we are able to cover all the complaints that come to our office.

25 SENATOR HUGHES: What action did you personally
26 take after the burning of the synagogue?

27 MR. HAYASHI: I had my district staff immediately
28 respond to the situation. Within hours, they had met with

1 various leaders of the synagogues, had viewed the sites, have
2 continued to meet with leaders of the synagogues, and we have
3 told them that, at some point, should it warrant, we would be
4 more than happy to represent their interests with respect to
5 enforcement of any rights they may have under the Ralph Act.

6 SENATOR HUGHES: Thank you.

7 SENATOR LEWIS: Senator Baca.

8 SENATOR BACA: Just a couple of questions.

9 I do appreciate some of the excellent questions
10 that Senator Teresa Hughes asked, because I was going to ask
11 those, but those have been asked, so thank you for asking them.

12 SENATOR LEWIS: What about my excellent
13 questions?

14 [Laughter.]

15 SENATOR BACA: Yours were leading questions.

16 Would you support legislation, because as we look
17 at complaints, and we look at travel time, would you support
18 legislation using the Internet for filing complaints in the
19 future as well?

20 MR. HAYASHI: We have had discussions about how
21 the Internet can be useful in terms of supplementing our intake
22 process. We've had only preliminary discussions, but I think
23 that we're open to any suggestions as to how we can use our Net
24 site to, perhaps, do more in the area of processing intakes.

25 SENATOR BACA: One final question I have, Dennis,
26 how do you feel with the statute of limitation in terms of the
27 complaints that have been filed and have expired during that
28 time? Because that's the complaint I get, is that the

1 Department is not handling the complaints within that timeframe
2 of a year based on that statute.

3 What is process for the individuals in terms of
4 an appeal process if, in fact, passes the statute of
5 limitations?

6 MR. HAYASHI: As you know, a couple of years ago,
7 there was an audit conducted of the Department which raised this
8 issue of expiring cases under our statutory authority. And one
9 thing that the Department did do was respond very aggressively
10 to addressing this problem.

11 So, I can say that since that audit report was
12 conducted in 1997, our -- the number of cases that have expired
13 has shrunken dramatically. It used to be that we would have
14 cases numbering perhaps 2,000 -- 1,000 or 2,000 a year which
15 expired. We're now down for the last fiscal year to only 47
16 cases that expired. So, we have made dramatic improvement in
17 that area.

18 With respect to what the rights of the individual
19 complainants are should they find themselves in that situation,
20 we have in the past year set up special units of what we call
21 case expediter to ensure that there are no cases that are going
22 to expire before meeting our statutory obligation.

23 But secondly, should one or two cases fall
24 through the cracks, they are there to ensure that the
25 individual's rights are preserved by either formally continuing
26 the investigation, and therefore triggering more time under the
27 statute, or referring it to the Equal Employment Opportunity
28 Commission, which would give an additional amount of time for an

1 individual to press their complaint.

2 SENATOR BACA: Thank you very much.

3 I hope you continue to work in that area, because
4 that's a common complaint that I do get from individuals in my
5 areas that have filed a complaint that has reached the statute,
6 and has expired. Then they end up dropping the case because
7 they didn't even remedy or look into it. So, I'm glad that the
8 audit report has done that, that you do that, continue to work
9 in that area because that's a common concern for many
10 individuals who file complaints.

11 And those individuals, that is their livelihood;
12 that's the only thing that they have, because they can't afford
13 to go out and hire an attorney because, you know, that's the
14 other option that they have, is to withdraw either a complaint
15 from you or EEOC, and then get an attorney. A lot of them just
16 don't have the funds to do that. So, they're looking, you know,
17 towards your Department for fair equity judgment.

18 MR. HAYASHI: The point is well taken.

19 SENATOR BACA: Move the confirmation.

20 SENATOR LEWIS: We have a motion.

21 One final question. A devout Christian couple
22 owns a duplex. They decide to rent out the other unit. A gay
23 couple applies to live there. They turn them down simply
24 because it's against their religious beliefs.

25 Is that a current violation of law?

26 MR. HAYASHI: I hate to comment on any
27 hypothetical fact situation, because again, we would have to
28 have a case and examine the facts.

1 There are some nuances with respect to religious
2 exemptions that the legal staff has been analyzing. We've been
3 discussing this, actually, for the last couple of weeks.

4 We intend, actually, at some point to perhaps, if
5 it's worthwhile, to conduct trainings to various housing
6 providers and employment groups on these issues, and would
7 welcome that opportunity.

8 SENATOR LEWIS: I think my question's a fairly
9 simple one.

10 What is your opinion, if a couple decides not to
11 rent to someone just because they're gay, or I'll throw in maybe
12 they're unmarried. What is your personal opinion on either of
13 those scenarios?

14 MR. HAYASHI: Well, there's a couple of things.
15 It depends on the size of the unit. There are certain issues
16 with respect to whether or not there may be other reasons given
17 in terms the refusal to rent.

18 Again, it's not an issue, I think, that can be
19 addressed in a hypothetical situation. It really is very fact
20 intensive.

21 SENATOR LEWIS: Why does it depend on the size of
22 the unit?

23 MR. HAYASHI: Because there are certain
24 exemptions with respect to the number of units, and whether or
25 not there are family members who are part of the individual
26 units.

27 So, all those issues, I think, are things that
28 need to be taken into consideration.

1 SENATOR LEWIS: So, your answer is, it depends.

2 MR. HAYASHI: That's right.

3 SENATOR LEWIS: So, there are times when you
4 would say that a Christian couple that chooses not to rent to
5 someone on the basis of their being single or gay, in some cases
6 would be considered, and should be prosecuted, for being
7 unlawful discrimination?

8 MR. HAYASHI: Well, again, it really does depend
9 on what the individual facts of the situation are.

10 Many times, there are various factors which are
11 part of these situations which don't lend itself to a clear
12 black-and-white answer on them.

13 SENATOR KNIGHT: That's the age we're in, Senator
14 Lewis, that it is everything is gray, and there's nothing black
15 and white, and there's nothing right or wrong.

16 SENATOR LEWIS: All right. We have a motion.

17 Anyone in the audience wishing to testify in
18 favor of the nominee at this time?

19 MR. HOLOBER: Good morning. My name is Richard
20 Holober. I'm with the California Labor Federation.

21 We are here in strong support of Dennis Hayashi's
22 nomination. We've worked with Mr. Hayashi on various issues
23 over a number of years relating to work place, justice, and
24 discrimination. We think he will continue to be a tremendous
25 leader in that area, and we think this is a terrific
26 appointment.

27 Thank you.

28 SENATOR LEWIS: Next.

1 MS. GUILLEN: Good morning. Elizabeth Guillen
2 on behalf of the Mexican American Legal Defense and Educational
3 Fund.

4 On behalf of MALDEF, MALDEF strongly supports the
5 confirmation of Mr. Hayashi. We believe his career is marked by
6 incredibly high commitment to civil rights and fairness. We
7 think he is a great candidate for the position.

8 Thank you.

9 SENATOR LEWIS: More qualified than Senator
10 Bergeson, I presume?

11 MS. GUILLEN: We believe so, yes.

12 SENATOR LEWIS: Thank you very much.

13 MS. GUILLEN: Thank you for the question.

14 SENATOR LEWIS: You're welcome.

15 Next.

16 Anyone in opposition or wishing to raise concerns
17 at this time?

18 All right, we have a motion. Please call the
19 roll.

20 SECRETARY WEBB: Senator Baca.

21 SENATOR BACA: Aye.

22 SECRETARY WEBB: Baca Aye. Senator Hughes.

23 SENATOR HUGHES: Aye.

24 SECRETARY WEBB: Hughes Aye. Senator Knight.
25 Senator Lewis.

26 SECRETARY WEBB: Two to zero.

27 SENATOR LEWIS: The current roll is two to zero.
28 We'll place that matter on call.

1 [Thereafter, CHAIRMAN BURTON
2 added his Aye vote, making the
3 final vote 3-0 for confirmation.]

4 SENATOR LEWIS: Senator Sher, you're here to
5 introduce someone?

6 SENATOR SHER: Thank you, Mr. Chairman and
7 Members of the Committee. It's my privilege and pleasure this
8 morning to introduce to you and to express my strong support for
9 the appointment of Mr. Art Baggett to the attorney position on
10 the State Water Resources Control Board.

11 Your Committee material provide you with his
12 basic biographical information, but just briefly, Mr. Baggett is
13 a lawyer by training. He holds a Master's Degree in
14 Environmental Studies. He has served as a faculty member in
15 various capacities.

16 He has also served two terms as Mariposa County
17 Supervisor, during which time I came to know him quite well and
18 to work with him on legislation effecting the County's
19 interests.

20 I can assure you without any hesitation that Art
21 will be an outstanding member of the State Water Board. He's
22 intelligent, thoughtful, consensus oriented, and a committed
23 public servant. He has already mastered the intricacies of the
24 Porter-Cologne Water Quality Control Act, and has visited me in
25 my office on several occasions to discuss important water
26 issues.

27 As you know, the State Water Board is one of the
28 most important institutions in the California Environmental

1 Protection Agency. Its mission is to protect the surface waters
2 and ground waters of the state.

3 It's also an agency that needs some review at
4 this point in history and a renewal of its commitment to water
5 quality protection.

6 I'm confident on the basis of my own personal
7 experience that Mr. Baggett will participate in that review in a
8 constructive way.

9 I would ask for your Aye vote on this very
10 qualified appointment.

11 SENATOR LEWIS: Thank you, Senator Sher.

12 Mr. Baggett, good morning, welcome.

13 MR. BAGGETT: Thank you, Mr. Chairman and Members
14 of the Committee.

15 I'm Arthur Baggett, Junior, nominee for the
16 attorney position on the State Water Resources Control Board.

17 I'd like to recognize that my wife of 23 years,
18 Phyllis Webber, is in the audience. She is beginning her 22nd
19 year as a school teacher in our hometown of El Portal. My son,
20 Fritz, is also present, a June graduate of Yosemite Park High
21 School, an apprentice climbing and mountaineering guide. And my
22 daughter, Alison, who's a sophomore In Mariposa County High.
23 They're all in the audience today.

24 It's indeed a privilege and an honor to be before
25 you today. I'm strongly committed to protecting the water
26 resources of the State of California for our citizens and for
27 our future generations.

28 I feel I have a strong background in working with

1 diverse interests to protect our environment while maintaining a
2 viable and healthy economy.

3 My highest priority as a Board member is for
4 fair, effective, and consistent enforcement of the California
5 water quality regulations. I think as Senator Sher mentioned,
6 I'm Chairing a task force, pursuant to your directive in the
7 Budget Act, to evaluate enforcement by the nine regional boards
8 and the state Board offices.

9 Secondly, I have a strong commitment to
10 integrating actions across agency lines. To this end, I am
11 acting as a liaison with the Air Resources Board, Integrated
12 Waste Management Board, Fish and Game Commission, and Board of
13 Forestry on behalf of the State Water Board.

14 I think lastly, I think, as you're all aware,
15 there's a major shift to nonpoint source pollutants. And that's
16 created a strong reliance on water shed management strategies.
17 I've been working closely with Secretary Nichols and the
18 Resource Agency to facilitate a stronger, on the ground
19 relationship between Resources agencies and our -- establishing
20 our respective roles in protecting water bodies and rivers of
21 the state from impairment.

22 Again, thank you for the opportunity to come
23 before you today. I look forward to working with you and your
24 staff.

25 SENATOR LEWIS: Thank you, Mr. Baggett.

26 Can you give us a quick update on the Board's
27 roll on what's happening in the MTBE problem?

28 MR. BAGGETT: We currently, our staff -- we have

1 a group of staff members from our regional boards working with
2 our state staff to develop a report back for the Governor's
3 directive, Executive Order. That will probably be back to our
4 Board for review by early December, and we'll have a report
5 shortly thereafter.

6 SENATOR LEWIS: Okay.

7 Questions? Senator Knight.

8 SENATOR KNIGHT: Thank you, Mr. Chairman.

9 I'm impressed, an attorney self-employed,
10 architect, designer, builder and developer, contractor.

11 SENATOR LEWIS: He obviously can't hold a job.

12 [Laughter.]

13 MR. BAGGETT: About every eight years.

14 SENATOR KNIGHT: And then Adjunct Professor in
15 chemistry? I was going to say the same thing, you know. You
16 couldn't find out what you wanted to do.

17 MR. BAGGETT: Right.

18 SENATOR KNIGHT: You know, there has been a
19 significant problem, at least an apparent problem, with the
20 underground fuel tanks, some 60,000 of them 30,000 of them have
21 been corrected. And then there was recently a report that
22 indicated, well, maybe it's not as bad as it seems.

23 But there's an awful lot of small gas stations
24 that went out of business, or it's cost them hundreds of
25 thousands of dollars to change those tanks, and some of them
26 haven't done it yet, and they may be still out of business.

27 Is there anything that you or the Board are
28 contemplating in this area?

1 MR. BAGGETT: Certainly, I come a very rural
2 area. That's one reason for diversity. When you live in a
3 rural area, to survive there, you end up changing every eight or
4 so years.

5 SENATOR KNIGHT: That's why you changed jobs.

6 MR. BAGGETT: Yes. It's something that I have a
7 lot of hands-on experience. Coming from Mariposa County, when
8 one station does go out -- I know there's a lot of funds
9 available through the Abatement and Clean-up Account, working
10 with some of the rural areas.

11 Our staff, I know, has been -- has worked, has
12 really gone out of their way to try to work with the rural
13 areas. And I've asked them -- well, they know my commitment and
14 my background; I've been involved in those.

15 But the bottom line is, we do have to get leaky
16 tanks out of the ground.

17 SENATOR KNIGHT: But you think that the leaky
18 tanks are as big a problem as maybe we initially thought from a
19 water contamination standpoint?

20 MR. BAGGETT: Yeah, MTBE is a problem. We know
21 that.

22 SENATOR KNIGHT: But would there be MTBE in some
23 of these tanks?

24 MR. BAGGETT: There are a lot of them, especially
25 if you look at certain areas.

26 I've been down to Southern California a number of
27 times. You look at the L.A. area, and it's pretty intensely
28 magnified.

1 SENATOR KNIGHT: We know about L.A. area.

2 MR. BAGGETT: Lake Tahoe, it's been a major
3 problem. It's one that we routinely get complaints from
4 actually the water districts up there, and have been working
5 with, trying to clean up, trying to get the money there as fast
6 as we can to get it into the cleanups.

7 SENATOR KNIGHT: Are there still funds available
8 for the small --

9 MR. BAGGETT: Yes.

10 SENATOR KNIGHT: -- stations to utilize?

11 I had heard that there are not sufficient funds
12 to cover the 30-some thousand.

13 MR. BAGGETT: There are funds in the account. I'd
14 have to go back and check to see exactly the balance, but I know
15 there are funds available, and on a priority basis, pending --
16 there's a lot of oversight required from our staff, too, to make
17 sure that the costs are real, and oversight of the contractors
18 and so on.

19 But there are funds available.

20 SENATOR LEWIS: Senator Baca.

21 SENATOR BACA: Thank you very much.

22 Arthur, in reference to the last question that
23 was asked, there's currently a bill, SB 482, that actually
24 changes the sunset date to require additional funding for
25 underground tanks in that area. I'm currently carrying that
legislation.

27 It's in the Assembly side at this point, Pete.
28 So, in reference to identifying that problem, there is

1 legislation currently.

2 That goes along with what you said, too, as well,
3 Art.

4 One question that I have, it deals with water
5 supply, growing California population. Over the next 25 years,
6 California's population is expected to grow to about 50 million
7 people. We now have about 34 million people.

8 Do you have any ideas on how California will be
9 able to provide sufficient water for an additional 16 million
10 people in California? Any thoughts or ideas?

11 SENATOR KNIGHT: Icebergs.

12 MR. BAGGETT: I think, certainly, with the
13 proposed bond act, there's continued funds in there for water
14 reuse and recycling, and recharging groundwater, salt water
15 intrusion. I think that's clearly an area that we're just on
16 the cutting edge of expanding on.

17 I know some of the districts -- in the last few
18 months, I've tried to travel around the state as much as I can,
19 and have noticed an increase in Los Angeles alone with the reuse
20 of recycled water and hyparian plants. They're doing quite a
21 bit with that, just in the beginning. I think you'll see that
22 expand.

23 I think, obviously, water conservation, upgrade
24 of their irrigation canals. That whole arena is just, we're
25 just now funding that. And some more creative uses of using
26 existing storage in terms of timing of flows and so on, I think,
27 will also help with that problem quite a bit.

28 SENATOR BACA: Thank you.

1 SENATOR LEWIS: Any additional questions at this
2 time?

3 SENATOR BACA: Move the confirmation.

4 SENATOR LEWIS: We have a motion on the
5 confirmation.

6 Keeping in mind that, once again, there's no
7 controversy associated with this nominee, but we will call for
8 anyone wishing, feeling compelled to testify in favor at this
9 point in time.

10 You feel compelled, Mr. Lehman; come forward.

11 MR. LEHMAN: I'll be very brief.

12 Thank you, Mr. Chairman and Members of the
13 Committee. I'm honored to speak in Art's behalf this morning,
14 having known him for many years.

15 Richard Lehman, for the record.

16 And, you know, the Water Board is beset with a
17 number of very serious controversies that are going have a deep
18 impact on the future of this state. I'll just cite one example
19 of Art's ability to deal with those kind of things.

20 We had a very contentious issue on the Merced
21 River between the County of Merced, the County of Mariposa, the
22 farmers and ranchers, the environmentalists, as to what the fate
23 of that river, which hangs above you, would be. It's the kind
24 of thing when you're a Member of Congress, as I was at the time,
25 you really don't like to deal with, because everybody is
26 fighting everyone else, and they're all constituents.

27 Art took charge of that issue, became the ..
28 architect of a compromise that everyone ended up endorsing and

1 supporting that both protected the River, Enabled Mariposa
2 County to have a stable, long-term source of water, and
3 protected Merced's rights as well.

4 Art is open-minded and willing to talk to
5 everybody, and has, as you can see from his background, an
6 ability to work with a wide range of people.

7 He enjoys the support of my successor,
8 Mr. Ridonovich, as well, for this position. I think that speaks
9 to his ability to solve these problem, and I certainly hope
10 you'll support him today.

11 SENATOR LEWIS: That you very much, Mr. Lehman.

12 Next.

13 MS. COLE: Kathleen Cole, Metropolitan Water
14 District of Southern California, and appearing on behalf of the
15 Bay-Delta Urban Coalition listen, which is an 11-member public
16 agencies, north and south, in California.

17 We urge your support for Mr. Baggett's
18 confirmation. He has an outstanding public record, service of
19 public record, as well as extensive knowledge in water supply
20 and environmental issues.

21 And we urge your Aye vote.

22 SENATOR LEWIS: Thank you very much.

23 Next.

24 MR. MACOLA: Mr. Chairman and Members, I'm
25 Stephen Macola. I'm here on behalf of Moulton-Niguel Water
26 District.

27 I also had the honor of being the Staff Director
28 to the Senate Water Committee for 20 years.

1 The Governor's made an excellent appointment in
2 Mr. Baggett, and I recommend him to you without
3 qualification.

4 SENATOR LEWIS: Thank you, Mr. Macola.

5 Anyone at this point in time wishing to testify
6 in opposition or raise concerns?

7 Seeing none, we have a motion. Please call the
8 roll.

9 SECRETARY WEBB: Senator Baca.

10 SENATOR BACA: Aye.

11 SECRETARY WEBB: Baca Aye. Senator Hughes.

12 SENATOR HUGHES: Aye.

13 SECRETARY WEBB: Hughes Aye. Senator Knight.

14 SENATOR KNIGHT: Aye.

15 SECRETARY WEBB: Knight Aye. Senator Lewis.

16 SENATOR LEWIS: Aye.

17 SECRETARY WEBB: Lewis Aye. Senator Burton.

18 Four to zero.

19 SENATOR LEWIS: That's four to zero. We'll place
20 that on call for the Chairman.

21 Congratulations.

22 MR. BAGGETT: Thank you.

23 [Thereafter, CHAIRMAN BURTON

24 added his Aye vote, making the

25 final vote 5-0 for confirmation.]

26 SENATOR LEWIS: Next we have Judy Johnson.

27 MR. DOYLE: Mr. Chairman and Members, I'm Larry
28 Doyle, Chief Legislative Counsel for the State Bar of

1 California.

2 I'm here very pleased to introduce Judy Johnson,
3 who has been reappointed by the State Bar's Board of Governors
4 to the post of Chief Trial Counsel to the State Bar.

5 Judy has served in this position since October of
6 '94, and was unanimously confirmed for that position by the
7 Senate at that time.

8 Prior to that, she's spent 17 years in the
9 Consumer and Environmental Units of the San Francisco District
10 Attorney's Office, specializing in the prosecution of major
11 fraud, white-collar criminal enforcement of California's
12 consumer protection and unfair competition laws.

13 She has also served a three-year term as member
14 of the State Bar's Board of Governors.

15 During her tenure as Chief Trial Counsel, Judy
16 has overseen the implementation of numerous improvements in the
17 State Bar's disciplinary system. She oversaw the implementation
18 of the recommendations of the Discipline Evaluation Commission
19 to the Board of Governors in 1994-95.

20 She has reorganized the office of Chief Trial
21 Counsel to increase teamwork and efficiency. She expanded the
22 minor misconduct programs. She's introduced initiatives to
23 increase sanctions and expedite prosecution of most egregious
24 conduct. And in 1996, when the State Auditor audited the State
25 Bar of California, even though they found problems in other
26 areas of the State Bar, they did acknowledge that the discipline
27 system has improved.

28 Probably the greatest testimony to Judy's

1 abilities is the fact that during the last year-and-a-half of
2 fiscal crisis for the State Bar, she has managed to maintain the
3 disciplinary system and has sought the -- begun the difficult
4 process of rebuilding and attacking the backlog that has amassed
5 during that time of fiscal crisis.

6 She is the right person for the job, and I
7 strongly urge your endorsement of her appointment.

8 SENATOR LEWIS: Thank you, Mr. Doyle.

9 Ms. Johnson, welcome.

10 MS. JOHNSON: Good morning, Mr. Chair and Members
11 of the Committee.

12 I'm here seeking your confirmation so that I can
13 continue my work in the attorney discipline system.

14 The primary challenge which I face, assuming
15 confirmation, is, of course, rebuilding that system into a fair,
16 equitable, efficient, consumer protection agency.

17 In addition, I've outlined in my statement a
18 series of initiatives to help educate Californians so that they
19 might be better consumers of legal services, and some strategies
20 for educating and helping lawyers meet their ethical
21 obligations.

22 I'd be happy to respond to any questions that you
23 might have.

24 SENATOR LEWIS: Thank you.

25 I just have one question at this moment in time.

26 What is your thought about the past use of
27 mandatory Bar dues for lobbying on contentious issues like
28 abortion or gay rights?

1 MS. JOHNSON: I think that that is an
2 inappropriate use of State Bar dues money.

3 However, you should understand that I operate
4 only one wing of the State Bar, mainly the discipline system,
5 which has no authority or say as to what legislative initiatives
6 the State Bar might undertake.

7 SENATOR LEWIS: Thank you.

8 Any other questions? Senator Baca.

9 SENATOR BACA: Just a quick question.

10 Based on the backlog of disciplinary actions as a
11 result of the loss of funding from the State Bar for nearly a
12 year, there exists a backlog of disciplinary actions.

13 How do you plan to address the situation that
14 provides for public confidence and bad attorneys being
15 disciplined?

16 MS. JOHNSON: Senator, what we've done is, we've
17 taken a really hard look at our inventory. We have divided that
18 inventory up, and tried to focus our resources on those cases
19 where there is clear misconduct and the conduct is egregious.

20 As to more insignificant transgressions or
21 violations of our rules, we've also come up with some
22 alternative strategies to deal with those, such as using
23 mediation strategies.

24 We've also been pretty effective in educating
25 lawyers who make mistakes about how not to make those mistakes
26 again. Our Ethics School Program, I believe, about 3600 people
27 have now attended it over the last ten years, has a remarkable
28 success rate. Only about 10 percent of those lawyers who've

1 attended that school have ever had a second complaint filed
2 against them.

3 So, I think what we have to use is a mixture of
4 strategies. We have to have effective prosecution, but lawyers
5 are, in fact, a resource for communities, particularly the poor
6 and minority and rural communities. So, we can do more to help
7 them meet their ethical obligations and not offend or violate
8 any State Bar rules.

9 SENATOR BACA: Thank you.

10 SENATOR LEWIS: Any additional questions from
11 Members of the Committee?

12 Is there anyone in the audience wishing to
13 testify in favor of the appointee at this time?

14 MR. OWENS: Good morning. My name is Howard
15 Owens. I'm the Executive Director of the Consumer Federation of
16 California.

17 My board has asked me to testify in favor of this
18 nomination because of their acquaintance with Ms. Johnson,
19 primarily, admittedly, in the consumer area.

20 So, I'm here to urge that you do confirm the
21 nomination of Ms. Johnson.

22 Thank you.

23 SENATOR LEWIS: Thank you very much.

24 Anyone else? Anyone in the audience wishing to
25 testify in opposition or raise concerns at this time?

26 SENATOR HUGHES: I'd like to move this
27 nomination.

28 SENATOR LEWIS: We have a motion. Please call

1 the roll.

2 SECRETARY WEBB: Senator Baca.

3 SENATOR BACA: Aye.

4 SECRETARY WEBB: Baca Aye. Senator Hughes.

5 SENATOR HUGHES: Aye.

6 SECRETARY WEBB: Hughes Aye. Senator Knight.

7 SENATOR KNIGHT: Aye.

8 SECRETARY WEBB: Knight Aye. Senator Lewis.

9 SENATOR LEWIS: Aye.

10 SECRETARY WEBB: Lewis Aye. Senator Burton.

11 Four to zero.

12 SENATOR LEWIS: That vote is four to nothing, and
13 we will place that matter on call.

14 Congratulations.

15 MS. JOHNSON: Thank you.

16 [Thereupon this portion of the
17 Senate Rules Committee hearing was
18 terminated at approximately 10:12 A.M.]

19 --ooOoo--
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1 CERTIFICATE OF SHORTHAND REPORTER

2
3 I, EVELYN J. MIZAK, a Shorthand Reporter of the State
4 of California, do hereby certify:

5 That I am a disinterested person herein; that the
6 foregoing transcript of the Senate Rules Committee hearing was
7 reported verbatim in shorthand by me, Evelyn J. Mizak, and
8 thereafter transcribed into typewriting.

9 I further certify that I am not of counsel or
10 attorney for any of the parties to said hearing, nor in any way
11 interested in the outcome of said hearing.

12 IN WITNESS WHEREOF, I have hereunto set my hand this
13 3rd day of September, 1999.

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18 EVELYN J. MIZAK
19 Shorthand Reporter
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17 9:00 A.M.

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25 Reported by:

26

27 Evelyn J. Mizak

28 Shorthand Reporter

1 APPEARANCES

2 MEMBERS PRESENT

3 SENATOR JOHN BURTON, Chair

4 SENATOR JOHN LEWIS, Vice Chair

5 SENATOR JOE BACA

6 SENATOR TERESA HUGHES

7 SENATOR WILLIAM KNIGHT

8 STAFF PRESENT

9 GREG SCHMIDT, Executive Officer

10 PAT WEBB, Committee Secretary

11 NETTIE SABELHAUS, Consultant on Governor's Appointments

12 WADE TEASDALE, Consultant to SENATOR LEWIS

13 FELICE TANENBAUM, Consultant to SENATOR HUGHES

14 ANDY PUGNO, Consultant to SENATOR KNIGHT

15 MANNY HERNANDEZ, Consultant to SENATOR BACA

16 ALSO PRESENT

18 WILLIAM A. NEWSOM, Member
19 California Regional Quality Control Board
Lahontan Region

20 GLEN ROSELLI, Deputy Secretary
21 Health and Human Services Agency

22 SENATOR DON PERATA

23 BRUCE BRONSON

24 PHIL ISENBERG

25 CARMELA CASTELLANO, Chief Executive Officer
26 California Primary Care Association

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1 P-R-O-C-E-E-D-I-N-G-S

2 --ooOoo--

3 CHAIRMAN BURTON: Bill Newsom.

4 MR. NEWSOM: Good morning, Senator, Members of
5 the Rules Committee.

6 CHAIRMAN BURTON: California Regional Water
7 Quality Control Board, Lahontan Region.

8 Go ahead.

9 MR. NEWSOM: My name is William Newsom,
10 N-e-w-s-o-m. I'm a retired Justice of the California Board of
11 Appeals. I reside in Dutch Flat, Placer County, California.

12 I'm here this morning at the invitation of the
13 Committee to discuss my qualifications and to answer any
14 questions that you may have concerning them.

15 CHAIRMAN BURTON: Besides being a friend of mine
16 for 50 years, what other qualifications do you have?

17 MR. NEWSOM: Well, recently I deliberately lost a
18 racketball game to the Senator in preparation for this hearing.

19 [Laughter.]

20 SENATOR HUGHES: Let's move the nomination.

21 CHAIRMAN BURTON: Any questions, Members of the
22 Committee?

23 SENATOR LEWIS: No questions today.

24 CHAIRMAN BURTON: All right, moved by Senator
25 Hughes. All recorded Aye.

26 Congratulations, Bill.

27 MR. NEWSOM: I had about 25 pages of notes to
28 discuss with you.

1 CHAIRMAN BURTON: His son has a very nice
2 restaurant in San Francisco, Plump Jack's. I'm sure we'll all
3 be able to have a sumptuous meal.

4 MR. NEWSOM: There's a back room there, yes.

5 Thank you very much.

6 CHAIRMAN BURTON: Glen Rosselli, Deputy Director,
7 Health and Human Services.

8 Senator Perata.

9 SENATOR PERATA: Mr. Chairman, Members, it's my
10 honor and privilege to be here to introduce to you and recommend
11 highly a constituent of mine, Glen Rosselli, who's been
12 nominated by Governor Davis to serve as the Under Secretary of
13 the California Health and Welfare Agency.

14 Glen brings a wealth of knowledge and experience
15 in developing and implementing sound, common sense, public
16 policies to this position.

17 After serving with distinction as the Policy
18 Director for the Congressional Joint Economic Committee, Glen
19 was appointed Deputy Assistant Secretary of Policy Analysis to
20 then Treasury Secretary, Robert Rubin. In that capacity, Glen
21 was the Treasury Department's senior advisor on health, welfare,
22 and Social Security, Medicare, and labor issues.

23 While at Treasury, Glen served as the
24 administration's point person on the earned income tax credit,
25 the highly successful bipartisan initiative that encourages low
26 income families to the work place. As senior Medicare advisor
27 to Secretary Rubin, Glen proposed policies that led to the
28 expansion of benefits to low income elderly and disabled

1 beneficiaries.

2 He also helped conceive and design the national
3 insurance program, also known as CHIP, which allows working
4 families to purchase affordable health insurance for their
5 children. As many of you know, it was CHIP that allowed the
6 creation and funding for California's only Healthy Families
7 initiative.

8 Upon completion of his work in Washington, Glen
9 returned to the Bay Area and to the City of Oakland, where he
10 served as the Senior Program Officer at the California Health
11 Care Foundation, where he worked Medicare and Medicaid issues.
12 He also served there as the Director of their Medi-Cal Policy
13 Institute.

14 Members, the challenge that lies ahead is an
15 awesome one for us, to provide responsible health and welfare
16 services and programs to a state with the largest, most diverse
17 population in the nation. If we are to meet that challenge
18 successfully, we'll need the very best people chosen to
19 implement those policies adopted by this Legislature.

20 Glen Rosselli brings that kind of hands-on, no
21 nonsense public policy experience to the Under Secretary
22 position. He will help us greatly in meeting our
23 responsibilities. I highly commend him to you, Mr. Glen
24 Rosselli.

25 Thank you.

26 SENATOR LEWIS: Welcome to the Committee. Do you
27 have a statement?

28 MR. ROSELLI: Thank you for that kind

1 introduction, Senator Perata.

2 Senator Lewis and Members of the Committee, I'm
3 honored to appear before you today seeking confirmation as Under
4 Secretary of the Health and Human Services Agency.

5 I'm joined here today by my wife, Elizabeth Katz,
6 and other supporters.

7 I want to thank Secretary Johnson for the
8 confidence he's shown in me, and Governor Davis for the
9 opportunity to serve the people of California in the
10 administration.

11 I come to this job believing greatly in the
12 importance and value of public service. Whether here in
13 California or in Washington, D.C. I've been fortunate to have
14 been able to work with many talented, bright, and dedicated
15 public servants. I've learned a great deal from them and hope
16 to use that knowledge here on the behalf of people of
17 California.

18 As Under Secretary, one of my top priorities will
19 be to improve the performance of the departments that comprise
20 the Agency. As you know, effectively managing the Health and
21 Human Services Agency, with its dozen departments, one board,
22 40,000 employees, and a combined budget in excess of \$50 billion
23 is no small order.

24 However, I believe that with sound program
25 management and some innovation we can do much more with our
26 resources. Taking advantage of our large market position to
27 purchase some services and better utilizing currently available
28 federal funds are just two areas where we can improve.

1 In all of my work, I continue to be guided by my
2 strong conviction that in certain instances, there's a
3 constructive role the state can play in providing the basic
4 services necessary to create economic opportunities for hard
5 working families who, at one time or another, may have trouble
6 providing for themselves.

7 I intend to devote myself to ensuring that the
8 California Health and Human Services Agency delivers efficient,
9 appropriate services to individuals and communities in need.

10 Thank you, Senator Lewis.

11 SENATOR LEWIS: Thank you, Mr. Rosselli.

12 Your appointment is on the fast track. It's a
13 little bit unusual with the rapidity that we're moving on this
14 one. My understanding is that we're going to have this hearing
15 today, and then your appointment is to be held on the Floor
16 until the beginning of next year.

17 In your own words, can you kind of explain why it
18 was felt necessary to expedite your appointment?

19 MR. ROSELLI: I think that's a fair question.

20 I think what we're all laboring under here, eight
21 months into this new administration, is the need to build our
22 departments and our Agency capacities.

23 Secretary Johnson worked long and hard with
24 limited staffing, and I think it was our intention to try to
25 move as quickly as possible to get that box checked and move on
26 to working in collaboration with the department directors and
27 other staff to build appropriate staffing so that we can conduct
28 the affairs of the Agency.

1 That's the simple reason.

2 SENATOR PERATA: Senator, also, Grantland Johnson
3 is here. He was six-two when he started his term.

4 [Laughter.]

5 SENATOR PERATA: He just needs some help.

6 SENATOR LEWIS: Your resume indicates that you
7 have a great deal of experience in terms of policy analysis.

8 What kind of administrative skills do you think
9 your background lends to your new post?

10 MR. ROSSELLI: That's also a good question,
11 Senator.

12 I think that what's not reflected directly on my
13 vita is the fact that when I was brought to the Treasury
14 Department by Treasury Secretary Rubin, I served for over two
15 years, a significant part of my activities were to join a senior
16 management team, and going from the bottom to the top,
17 evaluating the performance and effectiveness of the Treasury
18 Department and all of its entities. A significant portion of
19 every day, every day and every week, was to think through what
20 new management innovations we could put in place to better
21 deliver the services which we were charged to do.

22 As you know, the Treasury Department, in scope,
23 with offices across the country, parallels what the tasks are
24 before the Health and Human Services Agency.

25 I think I'm fairly well qualified, given that
26 experience.

27 SENATOR LEWIS: Thank you.

28 Questions from Members of the Committee? Senator

1 Baca.

2 SENATOR BACA: Glen, thank you very much.

3 In fact, I wish it was expedited a little bit
4 sooner, based on the responsibility of the position as well.

5 Glen, as you're quite aware, a large number of
6 California children live in poverty. Today, one-quarter of all
7 children and youth in California live in poverty. The
8 percentage is even higher for children under six.

9 Are you aware of this huge problem? What ideas
10 or thoughts do you have in addressing these problems?

11 MR. ROSELLI: Well, as Senator Perata alluded
12 to, when back in D.C., I had some role in helping to design and
13 create the Children's Health Insurance Program.

14 Here, I note that I was quite happy to see from
15 the federal perspective that there was fast action in a
16 bipartisan way to build a Healthy Families Program here, a
17 program that has started to see some acceleration of successes
18 enrolling kids.

19 Kids in Healthy Families are typically above the
20 poverty level, but there's a combined outreach effort underway
21 with Medical and Healthy Families, \$21 million, I believe, in
22 this next year's budget, that aggressively go up and down this
23 state in trying to find and enroll eligible kids in health
24 insurance programs.

25 SENATOR BACA: Now I know why we have to expedite
26 it. I move the nomination.

27 SENATOR LEWIS: We have a motion. Any other
28 questions from Members of the Committee? Senator Knight.

1 SENATOR KNIGHT: Thank you, Mr. Chairman,
2 Members.

3 Glen, do you have support taking the child
4 support enforcement authority away from the district attorneys?

5 MR. ROSSELLI: Senator, I think after many years
6 of difficult efforts in the child support area, we are now about
7 to move forward in some significant reforms. I think those
8 reforms are long over due.

9 I have not been directly involved myself in the
10 legislative discussions that you've been involved in, focusing
11 more on management issues, so I'd like to defer further comment
12 until such time that I've had a chance to engage fully in this
13 matter.

14 SENATOR KNIGHT: Do you have any specific
15 recommendations to improve the system, the child support system?

16 MR. ROSSELLI: As you know, Senator, right now we
17 are laboring under two years' worth of federal penalties for
18 having failed to get up a single statewide automated system;
19 penalties totaling somewhere in the neighborhood of \$95 million.

20 I think, hopefully, here in the near future -- I
21 don't want to get out ahead of the Governor on this, because I
22 don't know that he's spoken publicly on this issue -- but
23 hopefully in the near future, as a result of discussions between
24 the administration and legislative leaders and staff, we will
25 have an opportunity to move forward here and finally get up a
26 single automated statewide system that'll allow us to
27 effectively identify and collect child support payments that are
28 due from noncustodial parents. I think that would be a great

1 improvement, and I hope that that, in fact, occurs.

2 SENATOR KNIGHT: What kind of a percentage would
3 you forecast raising the collection to in the future?

4 MR. ROSSELLI: Again, Senator, I haven't fully
5 engaged in this issue. I'll do my level best to get back to you
6 with more substantive response if you so desire.

7 I would add very quickly that I think we have to
8 put our efforts where the money is. In some cases, we're
9 attempting to collect payments that are not collectable; in
10 other areas, we're not going after those payments that are there
11 and due.

12 Beyond that, I'd like to defer further comment.

13 SENATOR LEWIS: Senator Hughes.

14 SENATOR HUGHES: I'm extremely impressed by your
15 variety of professional experiences. Only one thing concerns
16 me.

17 How long are you committed to be with us?

18 Because I see Grantland Johnson sitting there smiling. He may
19 be crying in another year if you get a better offer. I'm
20 serious about that.

21 Have you made any commitment to the Governor on
22 how long you plan on staying, and what your goals and objectives
23 are for that period of time that you plan on being here, which
24 is your own business. But I think that you need to tell the
25 Committee and the people who are your supporters what your level
26 of commitment is.

27 MR. ROSSELLI: My supporters here know that I'm
28 committed, and that I come here anxious and enthusiastic, and

1 working hard to try to get the job done.

2 I'm committed to Secretary Johnson. I think he's
3 done a wonderful job.

4 And this Governor, I'm encouraged by some very
5 sound initial steps moving forward in this administration.

6 I don't come here just in passing. I waited a
7 long time to get this appointment. I plan to be here for a long
8 time.

9 And I hope to be able to work with you, Senator,
10 and the other Senators of the Committee, on a number of things
11 in the many years to come.

12 SENATOR HUGHES: Well, we're very happy that
13 you're passing our way. Just slow down your speed.

14 MR. ROSELLI: Thank you, Senator.

15 SENATOR LEWIS: Keeping in mind that there is not
16 any controversy as of this moment in time with this appointment,
17 and that the Senate Floor is scheduled in eight minutes, is
18 there anyone in the audience that wishes to testify in behalf of
19 the nominee at this moment in time.

20 Mr. Bronson.

21 MR. BRONSON: Thank you. I'm admonished about
22 your time. I do want to say just a word relative to what
23 Senator Hughes said. Nice to see you again, and nice to see all
24 of you again.

25 I'm Bruce Bronson. I'm a friend of most of yours
26 and former colleague.

27 I just wanted to make a couple of observations.

28 I think this is -- keeping in mind there's no

1 controversy, but I just hope you realize, this is a terrific
2 opportunity and not just an appointment.

3 The Governor saw fit to appoint perhaps the most
4 qualified person in the state to be the Secretary, a man of
5 great vision and great policy experience. And what he is doing
6 is systematically trying to build the equivalent of an All Star
7 Team of people who are dedicated to policy and who know what
8 they're doing.

9 As you know, I trudged around this area for quite
10 sometime in both departments and in the Agency, and I know it
11 reasonably well.

12 This position is so important, it's like a chief
13 operating officer for an area of activity that's bigger than
14 most states, most state governments, indeed, most national
15 governments. And when I was among those -- I see my colleague,
16 Phil Isenberg, in the audience -- Phil and I, and Phil Lee and
17 others tried to persuade -- were among the team that talked with
18 Glen to not accept more lucrative positions that would probably
19 be more individually recognized at the time, and tried to
20 persuade him to come to state government instead because of the
21 resource that he represented.

22 It wasn't a hard sell, because quite frankly,
23 he's an altruist at heart, I think, and he saw the opportunity
24 of a new regime, a new era, a new economic time, and a new
25 opportunity to really do something and work with Grantland.

26 When Grantland and the Governor finally got to
27 this point of having an Under Secretary, I can tell you, the
28 lines were buzzing around that, this is virtually a perfect fit

1 between somebody's background and what the job requires.

2 In addition to his intelligence and his vast
3 experience, which you've already seen, he's a person of great
4 attack. He can get the job done with people feeling that they
5 were involved with the process and involved with the product.

6 But most importantly, I believe, and I wouldn't
7 be here if I didn't, that he is motivated from the heart. He
8 believes in leaving the campfire a little better than how you
9 found it.

10 And his dedication is to improving the quality of
11 living environment for the people of this state.

12 I just hope you recognize, you have a great
13 opportunity to build what I think is the best team that I've
14 seen in 30 years of policy work here, and probably the best team
15 ever.

16 So, I encourage your strong consideration.

17 SENATOR LEWIS: Thank you.

18 Next.

19 MR. ISENBERG: Senator Lewis, Members, Phil
20 Isenberg.

21 I'm appearing just for myself in support of
22 Mr. Rosselli's appointment, but let me just tell you, he speaks
23 English. He doesn't talk to you in acronyms. He doesn't speak
24 to you in government talk about one of the most complicated
25 programs run by any state in America, which is Medi-Cal.

26 I would just commend to you the work he did in
27 setting up the program here in California at the institute. It
28 has managed to produce a body of reports that can be understood

1 and are actually helpful in this area, in contrast to so much
2 that floods your desk that is impressive but not useful.

3 Anybody who can bring common sense and a reasoned
4 judgment to this area ought to be appointed. I would urge your
5 consideration.

6 SENATOR LEWIS: Thank you very much.

7 Next.

8 MS. CASTELLANO: I'm Carmela Castellano, the
9 Chief Executive Officer of the California Primary Care
10 Association, representing community clinics and health centers
11 in California.

12 Our organization is concerned about issues of
13 access to care for underserved communities in California.

14 I've known Glen Rosselli now for about a
15 year-and-a half, starting in his capacity at the Medi-Cal Policy
16 Institute, and wanted to come before you today to speak very
17 strongly in his favor.

18 Glen has just the outstanding skills that you've
19 heard of at the administrative side, and impeccable background.
20 And I agree with the last presenters that we are very fortunate
21 to have someone of his caliber vying for this position here
22 today.

23 But in particular, one thing I have really noted
24 about Glen in the last year-and-a-half is his really
25 compassioned interest in a whole vast range of issues, and
26 particularly the issues of the underserved that I'm particularly
27 catered to.

28 Glen and I have just engaged in extensive

1 discussions where I find him to be visionary, very
2 compassionate, analytical in his approach, and very objective
3 and fair in how he looks at the issues. And those kinds of
4 skills, combined with his excellent background, I just see it
5 will be a great asset to the State of California and would very
6 much look forward to working with him and the Secretary in this,
7 a very important position.

8 SENATOR LEWIS: Thank you very much.

9 Anyone in the audience wishing to testify in
10 opposition or raise concerns at this time? Seeing none, we have
11 motion. Call the roll.

12 SECRETARY WEBB: Senator Baca.

13 SENATOR BACA: Aye.

14 SECRETARY WEBB: Baca Aye. Senator Hughes.

15 SENATOR HUGHES: Aye.

16 SECRETARY WEBB: Hughes Aye. Senator Knight.

17 SENATOR KNIGHT: Aye.

18 SECRETARY WEBB: Knight Aye. Senator Lewis.

19 SENATOR LEWIS: Aye.

20 SECRETARY WEBB: Lewis Aye. Senator Burton.

21 Four to zero.

22 SENATOR LEWIS: We will place that matter on
23 call.

24 Congratulations.

25 MR. ROSELLI: Thank you, Senator.

26 [Thereafter, CHAIRMAN BURTON

27 added his Aye vote, making the

28 final vote 5-0 for confirmation.]

1 [Thereupon this portion of the
2 Senate Rules Committee hearing was
3 terminated at approximately 9:30 A.M.]
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2
3 I, EVELYN J. MIZAK, a Shorthand Reporter of the State
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9 I further certify that I am not of counsel or
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11 interested in the outcome of said hearing.

12 IN WITNESS WHEREOF, I have hereunto set my hand this
13 ^{8th} day of September, 1999.

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